

UNION-STATE RELATIONS

Series Editor
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Volume Editor
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Series Editor's Introduction

The Union-State relations in India has been a subject of great controversy and debate from the very inception of the Constitution in 1950. Apart from the legal and constitutional issues that have arisen from time to time, there have been many political, economic and administrative problems which have had a deep impact on the working of the Indian federal system. The present volume on the subject contains a bunch of selected articles which have analysed some of these controversies and problems, as far as possible, in a dispassionate and objective manner. The quest for an adequate relationship between the Federal Government and the constituent units or states has been a fascinating, though elusive, theme for exploration by political and social thinkers. It is obvious that the historical experience and background as well as the socio-economic nature of the society cannot be lost sight of at the time of working out the system of relations in a federal system.

While the Sarkaria Commission, recently appointed by the Union Government, is still debating some of these vexed problems from a long term point of view, it is desirable that the academicians and people with different shades of political opinion should also reflect on the tremendous socio-economic changes that have taken place in the society in the last 35 years, understand fully the new forces and aspirations as have emerged, and re-examine some of the administrative and political practices which have been the bone of contention between the ruling groups of various political parties and come out with some specific and feasible suggestions to make the Centre-State relations operate on a more harmonious pattern. The basic considerations of unity and integrity of the country cannot be relegated to a secondary place in view of the fissiparous tendencies that operate sometimes openly and more often in a subtle manner.

Some of the controversial aspects of the Union-State relationship are concerned with the role and functions of the Governors, the powers of the President in relation to states and the economic and financial relations with special emphasis on the role of the planning system. Coupled with this are also the problems of the so-called autonomy of the state, the working of the party and electoral system and the impact of various Central agencies and institutions, and the communication media which have generated more heat than light as regards their far-reaching implications for harmonious relations between the Centre and states. It is very often forgotten that the Central institutions and

agencies aid and assist the states at their own request, reinforce their capability and not operate on their own. Very often the genesis and nature of such agencies, such as the paramilitary forces of the Union, are either not understood properly for want of information, or appreciated due to ideological or personal predilections.

As the Editor of this volume has indicated, the papers included herein provide a bird's eye-view of the changing nature of the Union-State relations in India, identifying some of the problem areas and indicating the future direction of reform. It is difficult to find oneself in agreement with all the views, the conclusions and the remedies suggested by the distinguished authors who have analysed their field of study in their own light. It is, however, sure that the various viewpoints will highlight conflicting issues and contrasting opinions. It is through an honest clash of intellectual analysis and interaction that we have glimmerings of truth in an area surcharged with emotion. The problems and tensions of the federal system should not get equated to narrow loyalties, chauvinism, parochialism and regional conflicts when we have a single citizenship and if we have a sense of integrity regarding our homage to unity and integrity of the nation and the country. Although the volume has not been planned as a prelude to the findings of the Sarkaria Commission, it is naturally hoped, however, that the discussion of some important aspects of Centre-State relations as they have emerged in the recent times would be a pointer to many of the changed circumstances which need to be considered while working out a more enduring and realistic set of reform proposals intended to meet the demands of a growing economy, a more dynamic and progressive political system and the challenges of some of the social, regional or ethnic tensions or the forces of communalism and separatism which have unfortunately appeared on the political scene with some intensity in the recent times.

The working of a federal system with a democratic and parliamentary form of government poses many problems. These problems get accentuated when efforts are mounted through planning to surmount the centuries of arrested economic growth and social backwardness. New tensions arise when effort is made to resolve the existing ones. The issues of economic justice and regional balanced development need co-ordinated action by the Union Government as well as the states. In a federal polity, the problem of devolution of authority—be it political, economic or administrative—does not cease with the states being repository of any increased authority. The role of local government institutions, cooperative organisations, regional development boards and voluntary agencies is also an important element in any vibrant federal polity. The aspirations of the people for regional identity do not exhaust themselves at the level of the states. Neither populist attitudes nor confrontationist postures will do any good either to the states or to

the Centre. In the context of the logic of defence and development, the Centre-State relations have a bearing on the very process of nation-building. It is not a mechanical system as may be enshrined in a document which lends vigour to the place of the states in the polity but the spirit of accommodation, understanding, harmonisation and reconciliation that permeates the states and the Centre, with a full comprehension of the commonality of objectives. A dynamic equilibrium of relations in human affairs and the changing environment can always be worked out given the goodwill, the political vision and an appreciation of the lessons of history by the holders of political power who are entrusted with the governance of the country, both at the Centre and in the states, in terms of the Constitution and for the good of the people.

It is hoped that the present volume would provide adequate background to various developments and would encourage scholars to think afresh in the matter. I am thankful to Prof. A. Datta who has taken pains to select the articles from *The Indian Journal of Public Administration* and edit them so as to provide a thematic unity to the various socio-economic and political problems which have emerged in the Indian federal polity in the recent times. Shri Mohinder Singh, Librarian of the Indian Institute of Public Administration and his colleagues deserve commendation for providing a short but relevant bibliography.

T.N. CHATURVEDI

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Volume Editor's Introduction

THE EIGHTEEN articles selected here on the theme 'Union-State Relations in India', dating from 1960 to 1978, bring out the flavour of the somewhat complacent days before the 1967 general elections, as well as the more uncertain decade afterwards. The volume starts with three representative pieces focusing on the changing character of the Indian polity, especially the impact of national planning on the autonomy of the constituent States of the Union. Both Jha and Dubhashi bring out the conflicting pulls of centralisation and decentralisation and end with the hopeful note that a correct balance between central direction and decentralised execution would eventually be found. Santhanam, however, poses two clear alternatives: one, to return to the constitutional pattern and restoration of the financial autonomy of the States; or, second, to effect a drastic revision of the constitution to regularise the deviant practices.

The next two articles bring out the need for the setting-up of an inter-State council to adjudicate disputes between the Centre and the States. The same suggestion recurs in a few other papers (notably Shivakumar) as well, and it is assumed that Article 263 permits the creation of such a forum. However, as Maheshwari points out, the Central Government has all along resisted the setting up of such a council "lest its actions be discussed in this body where it may not have the last word". The Union Law Ministry took the view before the Administrative Reforms Commission (ARC) "that such an inter-State council was mainly (meant) to look into disputes among the States themselves and to advise the Central Cabinet on them, although some matters in which the Central Government and a few States might be interested—in the establishment of a steel plant, for instance—could be referred to the council for its consideration". Maheshwari lays particular emphasis on the development of consultative techniques between the Centre and the States that are persuasive, negotiating and business-like and he would like to substitute an inter-State council, as recommended by the ARC, by abolishing many of the existing consultative forums. Sharma, on the other hand, would like to have a

council that is non-partisan and supported primarily by a body of experts.

The next article by Sahay, himself an ex-Governor, deals with the changing role of the State Governor and the dilemmas inherent in the dual capacity—as the constitutional head of the State and as the representative of the President—in which he has to function. Sahay would leave things to the good conscience of the Governor himself to decide in a moment of crisis, but if one views his office as primarily political rather than constitutional, then this freedom of decision-making inevitably gets coloured.

The next article by Paranjape pleads for depoliticisation of the planning and development process and calls for the strengthening of the planning machinery at the State level, adoption of a long-term planning strategy, taxation of beneficiaries of development schemes, creation of a development bank, especially for financing irrigation and power projects, etc. Many of these suggestions, however attractive at first sight, are beset with practical difficulties. Paranjape himself admits elsewhere that “the State political leadership is averse to the creation of the kind of machinery that is required for more effective planning”.¹ To this one would also add the resistance on the part of the States’ bureaucracy as well. Even the Planning Commission’s position in this regard is not very clear, if one goes by what one former Vice-Chairman (Asoka Mehta) has to say on this, *viz.*, “it would be far more difficult for the Planning Commission to deal with the planning boards and the boards in their turn to deal with the States, and for them to deal with the Central Government”.² The suggestion for the creation of a national development bank has also been made by Shivakumar, whose paper appears later in the volume, but this has been countered by the comment-writer, Thimmaiah, on the ground that it would necessitate problems of coordination with the Reserve Bank of India. One may recount that although the suggestion was originally mooted by the ARC Study Team on Financial Administration, the ARC in its report on Centre-State Relationships rejected the proposal on the ground that it would make the Planning Commission itself superfluous.

The next paper by Ramachandran anticipates many of the post-ARC changes in the allocation methods of plan assistance to the States, particularly the abolition of the Centrally-sponsored schemes, block assistance for financing State plans and tying of allocations to sectors of national importance. However, at this stage, the suggestions seem somewhat dated; obviously, when the piece was written it had a lot of contemporary relevance.

¹S. N. Jain, Subhas C. Kashyap and N. Srinivasan (eds), *The Union and the States*, National, Delhi, 1972, p. 419.

²*Ibid.*, p. 480.

In the next article Shivakumar makes quite a few suggestions, like converting the Planning Commission into an inter-State council (under Article 263), creation of a national development bank, undertaking a constitutional review of the sharable taxes between the Centre and the States, etc. The first two suggestions have already been examined, the last suggestion comes very close to what Santhanam proposed in a more comprehensive manner in the paper included in this volume. Shivakumar made a somewhat strange suggestion that the Finance Commission should not concern itself with the task of eliminating regional disparities; this has been challenged, quite correctly, by Thimmaiah as the comment-writer when he points out that "it is the Finance Commission which can assess the regional disparities in economic and social services and thereby enable the Planning Commission to use some portion of the plan grants for reducing regional disparities".

The next paper by Thimmaiah analyses the composition of and the procedure adopted by the first six Finance Commissions and concludes that lapses on these counts have contributed to some extent to their failure (effectiveness?).

The next two papers are concerned with Union-State relations and personnel administration. Jain in his paper pleads for institutional linkages between the Union and the State Public Service Commissions and suggests the creation of a national institution in this area to undertake research and development in public personnel administration. Bhambhri, in his paper on the all-India services, emphasises the difficult role of serving two masters and suddenly takes a strange position that the Chief Secretaries of the States should be appointed by the Centre—a suggestion which is not only novel, but also unique in the whole literature on this subject.

The next group of six articles deals with functional federalism—concurrent function (weights and measures), State function (law and order, education), partly State and partly concurrent function (agriculture) and partly Central and partly State function (industry). In his paper on law and order, Dass contends that under Article 355 the Union Government has overriding powers in maintaining law and order in the country; this view has been challenged by the comment-writer Singhvi who contends that the Constitution does not give explicit powers to the Union to protect its own property with the help of its own forces. One would tend to agree with Singhvi insofar as the 42nd constitutional amendment, passed during the emergency, specifically endowed the Centre with this power. Singhvi also differed with Dass's contention that the officers of a Central establishment could defy the promulgation of Section 144 (prohibition of unlawful assembly of persons) of the Criminal Procedure Code by a local

magistrate who refuses to protect such property. The remedy in this case would presumably lie in the overriding constitutional direction by the Centre, rather than by defiance of law. This aspect has also been examined by Ray in his paper and he traces the political differences between the Centre and the States during the late sixties (at a time when Dass wrote his paper) regarding the use of Central police force to protect Central Government property.

In his paper Puri points out that though agriculture was originally a State subject, through the insertion of a new entry (No. 33) in the concurrent list of the constitution, agriculture has been made virtually a joint responsibility. This is perhaps too sweeping a statement; however, one fails to understand the author's impatience with the ARC suggestion that agriculture should continue to be a State subject, in its operational manifestation, if not through explicit redemarcation of Centre-State jurisdiction.

Kamath's paper is primarily descriptive of the various forms of participation by the Centre and the States in the field of industrial administration. Naik, on the other hand, suggests that in the national interest it is necessary to evolve a 'working partnership' in educational policy, administration and finance, but one would be somewhat hesitant in accepting his pleas for regarding this as a 'tied' sector for plan assistance to the States—a device that applies only to a few major functional categories, as originally suggested by Ramachandran in his paper (referred to earlier) and also reiterated by the ARC subsequently.

All the papers together provide a bird's eye-view of the changing nature of Union-State relations in India, identifying the problem areas and indicating the future directions of reform. Although the centralist nature of the constitution makes India, what Santhanam calls a 'paramount federation', any major changes in its basic character, whether legal or operative, would have to await major shifts of political power to the States. Given the trend of political centralism, one could almost treat isolated challenges to the Central hegemony as a struggle for a lost cause.

ABHIJIT DATTA

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Planning, the Federal Principle and Parliamentary Democracy*

A. N. Jha

THE SUBJECT I have chosen for my talk today is planning, the federal principle and parliamentary democracy. I chose this topic deliberately because there is a certain amount of written matter on it, reality is very different from appearance; and, I have had the good fortune to see the changes as they have come about. Many of you may have read the little pamphlet called *Union-States Relations in India* by Shri K. Santhanam. This is a reprint of the lectures delivered by him at this Institute. If even after my talk your interest in the subject survives, I recommend that you look through this pamphlet. It will give you material for a good academic discussion of the subject.

Today, we are used to a certain method of work both in Delhi and in the State capitals, but that particular relationship is not what was envisaged by the early workers for India's freedom or by the British Government of the day. In the early days, even as late as 1905, there was a reference to various Indian nationalities having independence under one flag. The other day, I came across a passage written by the great Ranade, the well-known philosopher and worker for India's freedom, in which he talked of the iniquities of the British rule and in which he looked forward to the day when there would be one great Central Government with a lot of nationalities. He used the word 'nationalities'.

Then again, all Congress resolutions have laid emphasis on States and the federation. The federation idea has been very much in the field for a very long time. The Simon Commission talked of a federation and then the Government of India Act of 1935 talked of provincial autonomy; doubtless under the control of a British Governor or a Governor controlled from Whitehall, and with a good deal of separa-

*From *Indian Journal of Public Administration*, Vol. XI, No. 2, 1965, pp. 161-73.

tion of State powers and those of the Centre.

You will remember what happened in 1935 when great hope was entertained about the Indian States coming in. The argument at that time was that India could not get a responsible self-government because of the existence of the numerous princely States. The Act of 1935 left certain subjects to the provinces but if the Indian States were to come in, the subjects left for them were to be very much wider. Indeed, between 1935 and 1939, Lord Linlithgow, the Viceroy, spent most of his time trying to induce the Indian States to come in. Looking at those papers one is astonished how little foresight people had and how differently things shape out from what anybody can at any point of time imagine. The States were being told that they could come in provided they agreed to cede to the Centre, the foreign relations, defence and communications; and it is wonderful what interminable arguments went on between the rulers or their diwans and the envoys sent by the Viceroy to negotiate these matters. If one Maharaja agreed to, shall we say, the road running through his territory coming to the Centre, another would say, "Ah, yes, you may have the road, but I shall have the right to repair it," and so forth, and that kind of argument went on and on. The point which I am driving at is that what held the field then was the picture of a federation in which the Central authority would mainly run to three subjects—defence, communications and foreign relations.

Then came the war which reversed the trend. In a war you have to mobilise all your resources and there is not much room for thinking of provincial claims and provincial considerations. Take the case of food. In 1942, I remember I have very vivid memories of the conference which the commerce minister of the day held with the ministers from States and representatives of States over prices of foodgrains. The Punjab, which at that time had a surplus of foodgrains, wanted, so to speak, to treat the surplus wheat it had as if it were its own property to be sold, at prices acceptable to itself, to other States. The conference broke up because no agreement could be reached over the prices at which foodgrains would be supplied by one State to another. Then came the Bengal Famine in 1943 and, as if by magic, all these differences and rival claims disappeared and all the provinces in India agreed to a unified food policy.

Now food was very much a provincial subject. There was no constitutional basis for demanding from Punjab that it should part with its wheat in a particular way or that it should deprive its own citizens of wheat so that the people elsewhere could be fed. And, there was no legislation for that sort of thing. But, it was not on legislation that the food administration of the day after the Bengal Famine depended, it was on common consent. People agreed that

all the surpluses in various parts of India were poolable and were to be distributed according to need—the need to be judged by the Central Government, to various parts of India.

This is one instance, but there were innumerable others which led towards the strengthening of the unitary as opposed to the federal idea.

You will also recollect that, assuming that the British were acting in good faith, they faced the real difficulty of how to part with power while reconciling the claims of the two great communities—the Hindus and the Mussalmans. The remedy found for that by the Cabinet Mission in 1946 was a three-tier federation—groups of provinces, with a very weak Centre with the very minimum of power. What would have happened if that scheme had gone through, I shudder to think ! Imagine a Centre with those very limited powers, with resources distributed all over the place being threatened with the dangers with which in this modern world every independent country is threatened. How India could have lasted in those circumstances even for 15 years, I do not know. Luckily for us, the cabinet plan was shelved and we started 1947 with those two contradictory tendencies very much present—one the inherited tendency towards federalism, namely, powers to be mainly with the States and the Centre to have defence, communications, this, that or the other, and the opposite tendency of the war time experience of the need for greater powers for the Centre.

Then came the Constitution of 1950. Ours is a written Constitution, but, as I shall endeavour to show, merely reducing arrangements to paper does not matter very much. The compulsion of events might make you move in some quite opposite direction to the intention of the framers of a written constitution. At that time, there was at one extreme—some of you may remember—the view that India should not have States at all, that there should be unified administration with districts and commissionerships and so on and all to be centrally governed. I think Prof. Subedar—one does not hear of him very much now—was the leading opponent of this view. His suggestion was not accepted, but the framers of the constitution did depart a good deal from the earlier thinking regarding autonomous States. Our Constitution is not quite a federal constitution in the sense in which one uses that term. It gives to the Centre very much wider powers than most federal constitutions do. There is the power of the President acting in an emergency. The President can suspend a State if it insists on making a mess of its finances. The President has the power to give directions. These and the provision regarding the All-India Services, a common Election Commissioner, and Auditor-General, and many other features indicate that even at

the time of Constitution making, there was a very distinct move towards giving the Centre greater powers than had been earlier considered necessary.

PLANNING COMMISSION

Now this was in 1950. Then was set up something which, in my opinion, has had more to do with changing the shape of things than almost anything else. That was the acceptance of planning by the Government of India. A Planning Commission was set up with no legal sanction behind it. It is really an organ set up by the executive government. Its functions are expressly defined as advisory, and yet, such has been the effect of nearly 15 years of planning, all those provisions in the Constitution regarding division of money, excise duty and jute duty and so forth are now of hardly any significance at all. The amounts now at the disposal of the Centre for distribution to the States are so much greater than anything contemplated then, that the provisions regarding division of, shall we say, the Jute Export Duty, appear to be very minor and rather out of place in the Constitution of our country. They are just no longer significant in the present context.

Things, of course, did not develop that fast. The First Plan was really a small plan. It incorporated, by and large, the projects which already existed and it made comparatively small provisions for education, health, agriculture and the like, which you will notice are all State subjects. The Second Plan was very much bigger, and then came the device not merely of giving grants-in-aid, but of giving loans and money under Article 282 which altered the picture so completely that the stage has now been reached where if a State Government wishes to set up a large number of basic schools or agricultural colleges, veterinary colleges, health colleges or medical colleges—all matters obviously within the State field—it has somehow got to carry the Planning Commission with it. This is a far cry, indeed, from what the earlier fighters for freedom had thought of and indeed what the makers of even our Constitution intended. But, it has come about.

The reasons are various: the existence of the strong and influential political party ruling at the Centre and in most of the States; possibly even more important than that, the presence for many years after independence of a national leader of supreme and universally accepted authority; partly technological necessity; partly the urgent need for finding answers to problems which though falling within the State field were such that no Centre could have left them merely to the States—problems of unemployment; problems of development of backward areas; problems with which more than one State or even the entire country is concerned such as land reforms. One additional

important reason why all this astonishing change has come about without rousing too many antagonisms is that the Planning Commission carries with it another important body of men—the National Development Council—a body, like the Commission, with no place in the Constitution but built on consent. It is this council and the fact that the Commission alone, unlike individual ministries at the Centre or individual State Governments, can take an overall view of the developmental needs in all important sectors for the country as a whole, that lend the Planning Commission its real strength.

These were, I think, among the basic reasons which have led to this change in the constitutional position. To these you might also add the natural tendency of secretariat offices, like many of us, to assume that the man in the field does not know his job and that it is for us to do all the thinking for him. The secretariats including that of the Planning Commission have tended to think out problems on their own on an all-India scale and have tended to assume that deviations from their way of thinking are acts of sacrilege. Our Prime Minister, like Panditji, before him, is a great believer in leaving as many decisions to the States as possible. Most ministers also, I believe, subscribe to that doctrine. In practice, however, we secretaries and our advisers insist on laying down the policy even for subjects that concern the States alone.

Now look at this instance. In education, the Centre has laid down that there should be basic schools whether a State likes it or not. The State has to go in for such schools because otherwise the matching grant would not be there. Then take community development. The central ministry of community development lays down what salaries will be paid to the village level worker and the block development officer and how they will work along with other extension officers. That, one would think, would be a matter very much in the State field, but it is all regulated by Delhi. Take again health and medicine. I believe the Planning Commission now tells you how Ayurvedic teaching is to be organised, whether you have to give a man a knowledge of modern medicine after he has learnt Ayurveda, give him Ayurvedic knowledge after he has learnt the principles of modern medicine, or you have to give him the fundamentals of science and at the same time overlay it with the philosophy of Ayurveda. I believe all this is now laid down by the Centre. The State can depart from it, of course, but then the temptation that there is money coming if you follow the pattern laid down will always be there.

All this astonishing change—greater and greater centralisation in matters which were very much meant for the State field and where one would have thought the State administrations would have put up a fight—has come about without rousing much antagonism mainly

for the two big reasons among others, *viz.*, the existence of one political party and the existence of one great leader.

ROLE OF PLANNING COMMISSION

Let us now deal in some detail with the character and role of the national planning agency and the impact of planning and the planning machinery on parliamentary democracy and on federalism.

The constitution established a parliamentary type of executive in India both at the Centre and in the States. Accordingly, although the executive power is vested in the President at the Centre and the governors in the States, it is actually exercised by a Council of Ministers drawn from the legislature and is responsible to it. The Constitution did not elaborate the structure or the method of functioning of the council, which have, therefore, developed by conventions. Thus, at the Centre the executive power is not exercised by the Council of Ministers as a whole but by the Cabinet which is its core. The functioning of this inner core has itself been affected by its intimate relationship with the Planning Commission. Hence the question whether the planning machinery established by an executive resolution has affected the constitutional responsibility of the executive.

The Estimates Committee of the Lok Sabha, while examining the Planning Commission, criticised its composition and made the following recommendations:

While the Prime Minister's formal association was absolutely necessary during the formative stages and while he would still have to provide the guidance and assistance to the Planning Commission so as to facilitate the success of planning, it is a matter for consideration whether it is still necessary for him to retain a formal connection with the Planning Commission. Similarly, it would also have to be considered whether it is necessary to continue the formal association of the finance minister and other ministers of the Central Government with the Commission. The association of ministers is justified mainly on the ground that it facilitates close consultation and coordination with the ministers. This can, however, be effected by the minister being invited to attend the meetings of the Commission when a subject with which he is concerned is discussed. The coordination with the Cabinet can also be maintained by a representative of the Commission attending the meeting of the Cabinet when a matter of interest to the Commission is considered. This practice is said to be followed even at present.

They also disapproved of the cabinet secretary being the sec-

retary to the Planning Commission which they thought was neither necessary for any high level contacts nor conducive to efficiency. (This of course has since been changed.)

Shri Asok Chanda, the former Comptroller and Auditor-General of India, regarded the Planning Commission as virtually the Economic Cabinet of the country and made the following comments on its position:

This undefined position of the Commission and its wide terms of reference have gradually led to its growth as the Economic Cabinet, not merely for the Union but also for the States. The policies of a Welfare State embarked on a programme of planned development of her industrial strength and social services have necessarily an economic orientation. The Commission has seized upon this position and extended the scope of its activities to embrace the functions and responsibilities which must both traditionally and otherwise belong to the constituted government. This has been facilitated by the inclusion of the Prime Minister, the Finance Minister and two other Cabinet Ministers in the composition of the Commission, by giving the other official members the status of Ministers of Cabinet rank, and by the appointment of the Cabinet Secretary as the secretary of the Commission. The *de facto* role of the Commission as the Economic Cabinet is further stressed by the attendance of its members at all meetings of the Economic Committee of the Cabinet and also meetings of the Cabinet when economic questions come up for discussion. It would be only stating the obvious to say that the determination of policy and the objectives which it has to fulfil must necessarily be the primary function of the Cabinet accountable to Parliament. Equally, the unhampered execution of accepted plans and programmes must be the responsibility of the departments. These functions could hardly be shared with any other authority.

The position of pre-eminence accorded to the Planning Commission is inconsistent with the conception of a cabinet form of government.

Hence he suggested that if the Commission were to be reorganised comprising experts of vision and experience, "it should place the Commission in its proper relationship with the cabinet and the ministries; should also make it more effective in fulfilling its assigned task."

In the same strain, while dealing with the effect of planning on Union-State relations, Shri K. Santhanam, the former Chairman of the Second Finance Commission, described the National Development

Council as a "super cabinet of the entire Indian Federation, a cabinet functioning for the Government of India, and the Governments of all the States".

The constitution of the present planning machinery may be defended on the grounds that a statute might have made it more rigid, that a commission composed of experts totally detached from government might have been an ineffective body, for it would have thought in a vacuum, that the present membership promotes mutual respect between the government and commission and assures realistic planning, that the ministers are members of the commission in their personal capacity, that anyhow they are capable of acting and in fact do act in a dual role, and so forth.

Shri S. R. Sen also emphasises that the main functions of the Planning Commission are advisory and coordinating rather than executive, and that in view of the constitutional, political and economic situation that obtains in India, "it is as well that the Planning Commission should rely more on consultation and agreement than on sanction". The necessary sanction operates through the constitutional framework; in other words, the responsibility is assumed by the Councils of Ministers at the Centre and in the States. Nor need it be forgotten that the plan is examined, discussed and approved by parliament, and thereafter adopted again in the annual budgets with ample opportunities for debate and criticism. The Planning Commission's activities are also within the overall scrutiny of the parliament and its various committees.

Why were no provisions made in the Constitution or in a law regarding the establishment or functioning of the planning institutions. The question is not an easy one to answer. All that can be said is that the constitutional provisions relating to the Council of Ministers itself were also very meagre, and hence conventions had to grow regarding its composition and the manner of its functioning. The Constitution also does not mention anything regarding the base which determines the effective functioning of a parliamentary democracy, namely, the political parties. Thus there was ample scope for the emergency of suitable conventions regarding the working of the Council of Ministers comprising a coalition of parties, and their relations with the constitutional head. Similarly, the conventional growth of institutions established under resolutions of the cabinet would facilitate the formulation and implementation of effective plans and avoid the rigidity which would have necessarily arisen if the authority had been derived from a statute. The statute must remain strictly within the Constitution for else it could be declared unconstitutional. Moreover, under a statute it would not be as easy to modify the composition of the Planning Commission and its relations with the ministers.

IMPACT OF PLANNING

The impact of planning on this Federal structure has taken place in the following forms:

1. Planning has been unified and is comprehensive, despite the federal structure of the State. The plans deal not only with Central subjects but also with State subjects, such as agriculture, irrigation, land reform, community development, social welfare, and so forth. In fact, the outlay on State subjects has been approximately 70 per cent of the First Plan, 65 per cent of the Second Plan and is expected to be over 65 per cent in the Third Plan.
2. The responsibility for the formulation of the five year plans has been given to the Planning Commission which, although it includes members of the Central Cabinet in its membership, has no members from the States. The States do not have any planning commissions of their own and their role in the formulation of plans, even in their own spheres, is subject to the targets set out by the Planning Commission and is subject to their general approval. This gives the Planning Commission and the Central Cabinet greater control over the formulation of policy in the State sphere than the Constitution warranted. Hence the establishment of the National Development Council in 1952. The National Development Council, which includes the chief ministers of the States in its membership, approves the plan, reviews its working, and recommends to the Centre and the States measures for the achievement of the aims and targets set out in the plan. The Council is, however, neither a constitutional nor a statutory body. Again, the plans are discussed and approved by the Parliament, but not by the State Legislatures, although the bulk of the matters in the plan relate to the State subjects.
3. In the implementation of the plan in the State sphere, the autonomy of the State has been affected by the fact that the five year plan has been broken up into annual plans in the interests of flexibility, more effective management, and necessary adjustment to changed situation, and the States have to approach the Planning Commission every November or December for the approval of their next year's plan. Since the States are dependent for about 70 per cent of their development expenditure on revenue account and almost the whole of it on capital account on the grants and loans from the Central Government, their functional autonomy is affected

by their financial dependence. This enables the Central Government to sponsor policies or schemes on State subjects in addition to assisting State schemes, and with the financial carrot in hand, the Centre can affect the State autonomy in a way not warranted by Constitution. The system was criticised by the Comptroller and Auditor-General of India and the Public Accounts Committee of the Parliament and by other critics, such as Santhanam, who expressed the opinion that the formulation procedures have superseded or bypassed federalism, whereas implementation procedures had at best converted the federation into a vertical one.

Planning has greatly affected Union-State relations by bringing about the evolution of overall or comprehensive policies of development, by the establishment of new institutions, such as the Planning Commission and the National Development Council, neither of which derive their authority from the Constitution or a statute, and by evolving the procedures of the formulation and implementation of the plans on State subjects. Nor is the plan prepared by the Commission laid before the State legislatures for their discussion and approval. The annual plans of the States have also to be approved by the Planning Commission; the States are dependent on the Centre for financial assistance which has affected State autonomy and developed Central supervision over the administration of State subject; and so forth.

The impact of planning on federalism, however, need not be exaggerated. The other side to it may also be noted. It may be argued that comprehensive planning is desirable and justified for a rapid overall economic development on a uniform basis throughout the country, that this has been recognised and agreed to by the political leadership of the country both at the Centre and in the States, and that over the Planning Commission there is the National Development Council which safeguards the interests of the States. Nor need it be forgotten that the implementation of the State plans whether by legislation or by administrative action is still in the hands of the States. Indeed, this led Appleby to lament that the Centre was in fact only a large staff agency and that the States had far more money and personnel than in any other federation. Nor is the scope for varying the programmes by the States insignificant. Thus, for instance, there has been considerable variety in land reform legislation, whether in regard to the elimination of intermediaries, or tenancy reform, or the fixation of ceilings, or the consolidation of holdings. The organisation of the panchayati raj institution also varies from State to State. Ultimately, the States have not been losers in the process. Left to their own

resources the States would not be growing so rapidly. The jurisdiction of the States is still intact despite the fact that planning has grafted new institutions and procedures. The Centre-State relations in matters of finance and administration have been modified to keep to the constitutional position guaranteed to the States. Thus, the supporters of the Commission would observe, in the balance, the structure of the State, though affected by planning, basically remains federal.

SUMMING UP

I have dealt with the effect of planning on the relationship between the Centre and the States. I have mentioned also some of the devices which have been adopted to mitigate the rigours of the changes which might have come about in the face of the Constitution, namely, the establishment of the National Development Council and continuous consultation between officials at the Centre and officials in the States, the constitution of working groups inclusive of both parties and devices of that kind. These have considerably eased the friction which might otherwise have arisen notwithstanding the existence of one party in power throughout the country or through most of the country.

But, it is not in the planning, *i.e.*, in the economic field alone that the relations have changed considerably. All of you know about a conference which was held in Delhi in 1961 regarding national integration. This conference consisted of chief ministers, central ministers and leaders of various political parties in parliament and educationists and similar learned men. Among the suggestions which this conference approved were two or three which call for mention. I believe, they approved, or any way they acquiesced in, the recommendation made by the chief ministers two months earlier that there should be more all-India services. This conference also said that the business of textbook preparation should be centralised. The recommendation regarding the creation of more all-India services was of course in line with the thinking of the Constitution makers, for our Constitution itself makes provision for such services. But the suggestion that the preparation of textbooks should be taken over by the Centre would have shocked, I think, the people who passed the Constitution Act in 1950. But there it is. The compulsions of a situation, the need for maintaining the integrity of the country in the face of dangers which were not apparent in 1950, but which are very apparent now had led to a larger and larger measures and acceptance of Central interference within the State field. Not that the acceptance is very clear; we all seem to suffer from a bit of double mindedness anything affects the interests of our own State. The feeling of State rights is strong, but at the same time, we have the feeling that it is

the duty of the Centre to put right things which are seriously wrong and which are important. This is the double-mindedness that I have referred to. If there is a grievance of any magnitude in any part of the country—the tendency still is, and it has not diminished in any way, to look to Delhi for redress. If there is a communal riot in Aligarh, a minister from the Centre—a strange development indeed—promptly arrives on the scene. Law and order are very much a State responsibility, but I have not seen any criticism of Central ministers descending on a State town in a situation of that kind, and the people seem to accept it as but right and proper that the Central minister should be there. Probably, we have at the back of our minds the feeling that our safety and progress depend on a strong Centre willing to intervene; a strong and just Centre, a strong and representative Centre, while we are at the same time very conscious and jealous of State rights and privileges and whatever else goes with them.

The future lies in our being able to find a correct balance between centralised power and what I may call its decentralised use. The policy in ever-widening fields will have to be an All-India one and if it is to succeed, it will have to carry the consent of the State Governments and the State legislatures and the people of the States. A policy which runs fiercely counter to the sentiments of any large group will be a policy which will not be carried out wherever you may chose to place the constitutional powers. At the same time the tendency for execution to be centralised will, in my judgment, have to be resisted unless the whole administration is to break down under its own weight. We need decentralised execution, opportunity for initiative at various levels all over the country, and with all this, a definite recognition of the fact that, in this federation of ours, the Centre has the responsibility and should, therefore, have the power of seeing to things which matter.

Looking back over the last 17 years, I myself would think that we have achieved some success by means of *ad hoc* solutions and working conventions. I did not think in 1947 that in 10 years' time we should have steel plants and that we would have expanded industrial production by 85 per cent. In the sphere of agricultural production also—something I have had a good deal to do with, had anybody told me in 1951—the production at that time was 53 million tons of foodgrains that in 1960 we should reach a production figure of 80 million tons, I would not have believed him. I did not think it was possible—that it was in us to do that sort of thing. Well, it is. Therefore, I myself am hopeful that the correct balance between Central direction and decentralised execution we shall be able to find, and that the troubles of today, various forces of disintegration, quarrels over problems of

regional imbalance, the problem of unemployment, the problem of language and so on, will be solved by working solutions being found between the Centre and the States. In the finding of these working solutions and in the operating field the Administrator will have a very important part to play.



The Changing Pattern of Union-State Relations in India*

K. Santhanam

IN THIS article it is proposed to deal mainly with the changes that have occurred during the last 13 years in the pattern of Union-State relations as embodied in the Indian Constitution which was inaugurated on 26th of January, 1950. It may be considered that this is a short period for significant changes to have taken place. It is not so. Like the human body, a political constitution changes quickly in the earlier stages and settles down slowly into a more or less permanent form. Though it is assumed the reader is acquainted with the structure of federal relations in the Indian Constitution, it is necessary to point out some of its essential features in order to appreciate the changes that have occurred. A brief comparison of these relations in the Indian and US federations may be the simplest way of doing this.

The USA may justly be called the father of all federations. It is based on three fundamental principles. Firstly, the Federal and State governments are equal in status in constitutional law. The written Constitution of the Federation only describes the extent of federal powers and the nature and composition of federal organs. Each State framed its own constitution and has the right to change it. The Centre and the State are autonomous in their spheres. The latter elects its own governor and appoints its own officials. Second, the laws made by the State legislature are not subject to any approval or modification by the Congress or the President. It is the Supreme Court that decides the extent of legislative jurisdiction of the Congress and the State legislature. The third principle is the separation of powers. The executive, the legislature and the judiciary are sought to be kept separate and the powers and functions of each are limited by those of the other two. The States have their own courts which have exclusive jurisdiction in the enforcement of State laws. Similarly, federal courts enforce the

*From *Indian Journal of Public Administration*, Vol. IX, No. 3, 1963, pp. 457-64.

federal laws. The only limitations to these principles are that, in case of war or emergency, the President of the USA assumes all the powers necessary for the purpose and in the case of any conflict of a State and Federal law, the Supreme Court is the final judicial authority.

Far-reaching changes have occurred in the Federal-State relations in the USA, particularly during this century. Militarily and financially, the Federal Government has become a giant by the side of which the States are like pygmies. Matters affecting more than one State are necessarily Federal and modern industry, transport and commerce can seldom be confined to a single State. Therefore, legislative jurisdiction of the Congress has expanded though the principle of autonomy remains intact. There is no concurrent list in the USA. Still, even in such minor matters as recreational boating, cooperative legislation by the Federal Government and the States has become necessary. In 1957, a combined group consisting of "staff officials, staff members of the House Committee, a percentage of the coast guard and representatives of the Boating Industry and Public" was constituted. In accordance with the recommendations of that group, the Federal Boating Act of 1948 was passed which provided the framework for an overall federal system of numbering and regulating recreational boating. The group also prepared a model State Act to promote uniformity of State legislation. In spite of these changes, the main principles governing the US federal system continue to hold good.

The Indian Union is undoubtedly a federation. The Centre and States have their independent legislative and executive jurisdiction, financial resources and administrative services. But the States are not of equal constitutional status with the Centre. Not only during war or emergency, but also during normal times the Centre occupies a dominant position. State autonomy is restricted. The constitution of the States forms a part of the Indian Constitution. No State has the right to change its constitution but parliament has the exclusive right to change many parts of the Constitution including the merger of States and redistribution of their areas. Only in the case of some Articles ratification by a majority of the States is necessary.

The existence of a concurrent list including such subjects as criminal and civil law and procedure; trade unions; social security; legal, medical and other professions; price control; motor vehicles; factories and electricity; in relation to which parliamentary legislation prevails over State legislation makes the Indian parliament legislatively supreme. Similarly, the appointment of the governor and high court judges by the President, recruitment to All-India Services by the Union Public Service Commission and the powers of supersession given to the President by Articles 356 and 357 ensure the paramountcy of the Central Government over that of the State.

In order to bring out this aspect of the Indian Union, the present writer called it in another context a 'paramount federation' implying thereby that the Union had paramount powers over the States. The Indian national leaders sympathised with the Indian princes when the latter protested against the doctrine of paramountcy propounded by Lord Reading, but when the British Government renounced its paramountcy on the eve of transfer of power in 1947, the same leaders were astounded and demanded that it should be transferred to the new National Government that was being set up. Though this was not done explicitly, late Sardar Patel assumed it and found ways and means of suppressing States like Junagadh and Hyderabad which refused to accept the supremacy of the Government of India. The old Indian States have been completely integrated with the rest of India but the principle of paramountcy has been embodied in the Indian Constitution. This is not only explicit in the Articles of the Constitution dealing with Union-State relations but also implicit in the very structure of these relations. This has been brought out clearly by a recent decision of the Supreme Court. The West Bengal Government filed a suit questioning the power of the Union Government to acquire coal-bearing lands vested in the State. Delivering the majority judgement, the chief justice pointed out that parliament was by law invested with authority to alter the boundaries of any State and to diminish its area so as to even destroy a State with all its powers and authority. Therefore, the assumption of absolute sovereignty of the State was baseless and the Union parliament could legislate even if it encroached upon the rights of the States in the property vested in them.

Let the writer not be misunderstood. The paramountcy claimed by the British over the Indian princes was intended mainly to arrest the growth of Indian nationalism and to ensure their military and political subordination. On the other hand, the paramountcy embodied in the Indian Constitution is intended to check the forces of disintegration and ensure the well-being of the masses, particularly the backward classes.

As for the separation of powers, it is enough to remark that in India, there is an integrated judicial system common to the Centre and the States, but the makers of the Indian Constitution tried to follow the example of the USA in making that system as independent of the executive and the legislature as possible. On the other hand, the cabinet system of the British type which India has adopted negatives the separation of the executive and the legislature.

FAR-REACHING CHANGES

We shall now turn to the changes that have occurred during the last 13 years. They have been far-reaching and many factors have

contributed to bring them about. The most important of them is national economic planning.

Economic and social planning is item 20 in the Concurrent list. But the First Five Year Plan, which began in the year 1951-52, was not based on any legislative authority given to the Government of India by parliament under this item. The Planning Commission was set up by executive authority and all the three plans have been formulated and implemented without any special constitutional amendment or even parliamentary legislation. This was possible only because the Government of India undertook to shoulder the major financial burden of planning and the existence of Congress ministries in all the States enabled the political power of the party to be used to overcome the doubts and hesitations of State Governments. The immediate result of national planning has been to convert India, for all practical purposes, into a unitary State so far as economic policy is concerned.

This does not mean that the federal system has had no effect on the evolution or implementation of the five year plans. To the extent that the plans required legislative action on the part of the States, the response has been altogether uneven. The zamindari system was abolished soon after the transfer of power as this was an agreed item on the platform of the Indian National Congress during the struggle for freedom, but in regard to the reform of ryotwari system, imposition of land ceilings, consolidation of holdings and cooperative farming, the State legislatures have, to a large extent, either discarded or nullified the proposals of the Planning Commission and the wishes of the Central Government.

From the constitutional aspect, the most important effect of planning is to upset the system of financial relations between the Centre and the States. They constitute the most difficult problems in any federal government. The Constituent Assembly devoted a great deal of attention to the formulation of these relations and it may be claimed that all the difficulties encountered by other federal systems were sought to be avoided. The provisions in the Indian Constitution were based on the following broad principles:

- (a) All taxes should be divided between the Centre and the States so that there might be no overlapping.
- (b) The proceeds of all taxes assigned to States should belong exclusively to them.
- (c) The net proceeds of certain taxes which have been assigned to the Centre for levy and collection should be distributed among the States in accordance with such principles of distribution as may be formulated by parliament by law. Of the other taxes assigned to the Centre, the proceeds of income-tax are to be shared with the States and the proceeds of excise duty may be

shared with them. The share of income-tax to be allocated to the States has to be decided by the President after considering the recommendations of the Finance Commission which has to be set up once in five years and shares of excise duties have to be determined by parliament which will have the benefit of similar recommendations.

- (d) Grants may be given to States in the same manner on the basis of the recommendations of the Finance Commission.
- (e) The Centre and the States may raise loans from the public for their capital needs.

This was rather an elaborate and complicated system. But it was intended to ensure State autonomy to a high degree and at the same time it provided for an elastic periodic readjustment of financial relations in accordance with changing needs.

Planning has upset this system altogether. For the year 1953-54, the assistance of the Centre to the States is estimated at Rs. 1,009 crores of which Rs. 541 crores are to be in the form of loans, Rs. 25 crores in the form of capital grants, Rs. 211 crores as grants, Rs. 230 crores as shares of divisible taxes and duties of which Rs. 47 crores are in lieu of surrender of sales tax by the States on textiles, sugar and tobacco. Out of the total grants of Rs. 211 crores, only Rs. 61 crores fall under the substantial provision of Article 275 (1) and Rs. 7 crores under the proviso of that Article. The balance of Rs. 143 crores is to be given under Article 282 which was not at all meant for this purpose. Thus, over 70 per cent of Central assistance is given outside the normal constitutional provisions and at the discretion of the Central Government.

Both the Second and the Third Finance Commissions have commented on the effect of planning on Centre-State financial relations. The Second Finance Commission stated, "Some anomalies inevitably arise where the functions of the two Commissions, the Finance Commission and the Planning Commission, overlap. The former is a statutory body with limited functions while the latter has to deal comprehensively with the finances of the Union and the States in the widest sense of the term." The Third Finance Commission, after endorsing the views of its predecessor, said:

Being of the same view, we consider that the acceptance of one of two alternatives we suggest would alone remove the anomalous position. The first is to enlarge the functions of the Finance Commission to embrace total and financial assistance to be afforded to the States, whether by way of loans or devolution of revenues, to enable them both to balance their normal budgets

and to fulfil the prescribed targets of the plans. This, we consider, would be in harmony with the spirit and even express provisions of the Constitution. This would also make the Commission's recommendations more realistic as they would take account of the inter-dependence of capital and revenue expenditure in a planned programme. The second is to transform the Planning Commission into Finance Commission at the appropriate time.

It may be asked if the loss of initiative in economic policy and of financial autonomy which the States have had to suffer as a result of planning are not adequately compensated by the new pattern of economic partnership that has come into existence. It is true that the National Development Council which has come to occupy the position of a super-Cabinet in the field of planning and Union-State relations consists of the Prime Minister and the chief ministers of all States. But that Council includes other important Cabinet ministers of the Centre. The Planning Commission is almost a mere extension of the Central Cabinet. Besides the prime minister who is its chairman and the vice-chairman who is also the minister for planning, it includes other senior cabinet ministers. The National Development Council generally considers proposals sponsored by the Planning Commission and has no secretariat of its own. It is also hardly likely that the States would speak with one voice on any issue. This became apparent when the States were asked to surrender their sales taxes on textiles, sugar and tobacco and agree to be compensated by the levy of additional excise duties by the Centre on those articles. The States of Maharashtra and West Bengal were strongly opposed and some other States did not like the surrender of rights given by the Constitution. But the decision was taken in a more or less casual manner without reference to the cabinets or legislatures of the States concerned.

The reorganisation of States primarily on linguistic basis has had no less profound effects on Union-State relations though in a different manner. Like the replacement of English by Hindi as the official language of the Union, linguistic reorganisation was an inheritance from the Indian National Movement. Both of them were proposals sponsored by Mahatma Gandhi and during his life-time, there was practically no opposition to either among Congressmen. But after the achievement of freedom and assassination of Mahatma Gandhi doubts began to arise and spread. The issue of the official language was postponed in the Constituent Assembly to the end and after long and bitter controversy Chapter XVII of the Constitution embodying a compromise was adopted. On the other hand, the Constituent Assembly came to the conclusion that reorganisation of States on linguistic basis was a far more complicated affair and left it to the future, but unfortu-

nately it was left to be dealt with not by constitutional amendment but by ordinary parliamentary legislation (Article 3). While the Government of India has proceeded cautiously in the matter of replacement of English by Hindi, it dealt with the matter of linguistic reorganisation in a hurried and haphazard manner. The Andhra State was formed as a result of fasting unto death by a Congress worker. Then a commission of three members was set up for general reorganisation of States. The commission did not visit all the States jointly and the report was obviously a patch-up of heterogeneous views. In the case of Madras, Kerala and Mysore, it applied the principle of unilingualism but somehow this principle was given up in the case of Hyderabad and Maharashtra. In the end, all the States in India except Punjab and to some extent Assam, came to be reorganised on the unilingual basis. An unwieldy and conglomerate State of Madhya Pradesh was formed. Though this has not affected the growing dependence and subordination of the States in the matters of finance and economic policy, it has resulted in the emotional consolidation of vast areas on the basis of language. Maharashtra with 40 millions, Andhra with 36 millions, West Bengal with 35 millions, Madras with 34 millions, Mysore with 24 millions, Orissa with 18 millions and Kerala with 17 millions consist of powerful communities in which linguistic emotion is a rival to feelings of national patriotism.

In some respects, the community development programme was an even greater inroad into State autonomy than national planning. To speed up the progress of villages, to increase the productivity of agriculture, to secure basic amenities such as drinking water and sanitation to the villages are objectives which deserve unqualified support, but the community development programme was conceived and evolved by the Central Government, though the matters were within the exclusive State sphere. The size of the block, its staffing pattern including Extension Officers and VLWs and the actual plan of work were all settled in minutest details at the Centre and the State Governments had no alternative but to accept the whole scheme and the financial assistance that went with it. It may be conceded that the programme could have been spread over the whole country in such a rapid fashion only by this method. Unfortunately, the people for whose benefit the programme was evolved accepted it partly as a gift and partly as an imposition and they did not feel they had much to do with it beyond making the required contributions for development works like schools and hospitals. This led to the demand for democratic decentralisation which was strongly supported by the Study Team on Community Projects and National Extension Services headed by Balwantray G. Mehta. The recommendations of this Team were accepted by the National Development Council and all the States were

advised to establish panchayati raj. Here again, the State legislatures deserted their autonomy to some extent and the pattern that has emerged varies widely from State to State. If these panchayati raj institutions become truly self-governing, they will constitute a diminution of State autonomy from the opposite end.

Besides these major developments, it has become the practice to hold annual conferences of ministers, secretaries and heads of departments relating to every subject. They are intended to promote cooperative action by the State and this should be welcomed. At the same time, they also provide convenient means to enforce central direction which tends to become imperative when it is supported by financial inducements.

The centralised character of the Congress and other major political parties has also tended to diminish the stature of the States in relation to the Centre. Recently, the Governor and the Chief Minister of U.P. had to go to Delhi to consult the central ministers and the Congress President in a matter which constitutionally should have been settled at the State level.

Several other factors like the zonal councils, the creation of engineering, medical and forest all-India services and the pattern of electioneering that has been emerging, all have had their effects on Union-State relations. But this article has already become too long to permit me to deal with them in detail.

We may now summarise the net result of these forces. State autonomy in the fields of economy, finance and administration has been steadily diminishing. This has resulted in increasing irresponsibility and extravagance on the part of some State Governments. The power of the Centre over the States is becoming ever more extensive but this has to be supported by shouldering increasing financial burdens. On account of reorganisation on the basis of language, the majority of States have become welded emotionally into strong units with powerful political pulls and conflicting economic and financial demands on the Centre. The situation is becoming more and more unstable. The divergence between the pattern of Union-State relations embodied in the Constitution and those that have come to prevail in actual fact is already dangerously wide. This state of affairs cannot continue for long. There are two alternatives before the Indian leaders, neither of which is easy. They may either return to the constitutional pattern, decentralise planning and restore financial autonomy to the States or they have to take courage in both hands and make a drastic revision of the Constitution.



Unitary Trends in a Federal System*

P. R. Dubhashi

TREATISES ON political science might deal with the theories of division of functions between the federating units and the Union Government and the constitutional documents might enumerate the functions assigned to each but in actual fact, it is the working of any constitution that would determine the degree of influence of the Union Government *vis-a-vis* the governments of federating units on the practices and processes of public administration as they impinge upon the body of citizens. The Indian Constitution has now been working over a decade and it will be a useful contribution to the study of public administration in India to find out how far the division of functions as envisaged in the Constitution has in practice demarcated the spheres of activities of the Union and State administrations and how far these spheres have actually overlapped with probably an increasingly important part played by the Union Government even in matters falling within the purview of the State Governments. Federalism being the concomitant of "a desire for union but not for unity" makes adequate accommodation for regional dispersal and diversities of administration. But other centralist forces arising out of the conditions of the modern world tend to counteract the federal tendency towards decentralisation. "In the olden days when the transport was slow and economic life functioned in narrow sphere, defence was the only large function of Federal Governments; but today economic life is functioning on a world scale and each country has to maintain a unified and coordinated economic policy. This is true of federations as of unitary States, and is illustrated by the experience of the United States, Canada, Australia and other federations. In those countries in spite of jealous safeguarding of 'States' rights', federal aid and direction have increased in recent times and are likely to continue to increase

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From *Indian Journal of Public Administration*, Vol. VI, No. 3, 1960, pp. 243-56.

in future"... "Education, public health, agriculture and industries are primarily provincial subjects, but, if these important nation-building agencies are to produce the greatest possible benefits in service to the public, suitable policies must be formulated in many respects on a more or less all-India basis."¹

Similar views have been even more emphatically stated by another distinguished thinker on Indian federation : "The master plan of economic development must be countrywide. In particular respects, the federating units might be left free to control the pace or direction of development and the plan itself would pay proper attention to all-sided development of all regions. At the same time, all federating units must accept overall direction imposed by the master plan. The federal government must have adequate powers to involve the general plan of economic development for the whole country and must have powers to carry out its essential features and to supervise and enforce its implementation by the federating units. This is only inherent in economic planning."² Here indeed is logic of federation placed in bold relief against the logic of planning. Professor Gadgil goes on to mention planning of water resources involving extensive river systems, planning of crop production, exploitation of mineral resources, development and location of industry, distribution of essential commodities as so many fields of economic development "which do not lead themselves to fractional treatment". No matter whether they are enumerated as State functions or as Union functions in the Constitution, in practice the Union Government would perforce be required to be vested with adequate powers to discharge its responsibilities. To quote an English authority on the growing tendencies towards centralisation : "It has been impossible to maintain separate functions of administration. In various cases the federal authority has had to concern itself increasingly with questions affecting education and health services, which from their nature appear more appropriate for treatment by the local authority as being in closer and more intimate touch with the ultimate beneficiary."³

II

How far have the centralist tendencies prevailed during the last decade of the working of the Indian Constitution? Before this ques-

¹P. J. Thomas, *The Growth of Federal Finance in India*, Oxford University Press, 1939, pp. 408-409.

²D. R. Gadgil, *Federating India*, Poona, Gokhale Institute of Politics and Economics, 1945, p. 44.

³Cecil Kisch, "Foreword", *Principles and Problems of Federal Finance*, by B. P. Adarkar, London, P. S. King, 1933.

tion is answered, it might be best to recapitulate the constitutional provisions governing the relationship between the Union and the States. It has often been said that the Indian scheme of federation is so heavily loaded on the side of a strong Union that it almost approaches a unitary State. The framers of the Constitution believed that "only the Centre can work for a common and general interest of the country". The method of 'enumeration and residium' that has been widely employed, e.g., in the United States of America and Australia, according to which the federal powers are enumerated and the residuary powers are left to the States, has not been followed in the Indian Constitution. No doubt Canadian Constitution leaves residue to the Dominion Government, but the residue is unimportant because enumerated heads are so wide that little is left for residue. The Indian Constitution enumerates functions in three lists—Union, State and Concurrent—which according to Professor Ivor Jennings are so detailed that majority of cases will be covered by express words.⁴ The Indian Federation is said to be less federal and more unitary in character not only because the lists assign a wide field of operation to the legislative and executive authority of Union Government but also because :

- (a) Residuary powers of legislation are vested in the Union Government (Article 248);
- (b) The Union Government can trench upon the State list in national interest (Article 249) ;
- (c) Parliamentary law prevails over the law of the State legislature when the former is enacted under conditions mentioned in (b) above (Article 251) ;
- (d) In matters enumerated in Concurrent list Union law prevails when it is in conflict with State law; and
- (e) Parliament has powers to legislate for two or more States by consent of and adoption by those States (Article 252).

But the intention of the present article is to bring out the centralist tendencies arising not out of the constitutional provisions but rather as an outcome of actual normal functioning of administration without involving resort to any extraordinary articles of the Constitution. These arise out of "the common determination of the Central Government and the Governments of all the States of the Union of India to carry out the Plan".⁵ They are the direct offshoot of the discipline and uniformity which a common plan has progressively

⁴Ivor Jennings, *Some Characteristics of the Indian Constitution*, Madras, Oxford University Press, 1953, p. 61.

⁵Government of India, Planning Commission, *Second Five Year Plan*, 1956, p. xi.

imposed. Only a study of the working of the various sectors of development administration will reveal the extent to which, under the discipline of overall planning, centralist tendencies have developed notwithstanding the existence of a Federal polity. It is not possible within the scope of a single article to attempt such a comprehensive study in respect of all the development departments. However, community development is taken here as a typical instance of what is often termed as a 'coalition administration' which cuts right across the three lists enshrined in the Constitution.

III

The enumeration of fields of administration in the three lists of the Indian Constitution was considered by many to be so exhaustive that it was felt that a non-descript item would hardly emerge at least in the near future. But within three years after the adoption of the Constitution such an item did arise. The community development programme which was ushered in 1952 under the joint auspices of the Union and State Governments has eluded the Lists. It does not appear anywhere in the exhaustive catalogue of activities embodied in the three lists. But, while 'community development' *per se* cannot be traced in any of the three lists, the components of this omnibus programme can be traced in these lists, as can be seen from the chart on page 26. It will also be seen from that chart that every component of the community development programme falls in the State List and yet when the community projects administration was established on March 31, 1952, to implement the community development projects it was functioning as an independent administrative unit under an administrator who was responsible for planning, directing and coordinating the community projects throughout India under the general supervision of the central committee of the Planning Commission. The original organisational pattern of the administrative set-up was as illustrated on pp. 27-28.⁶

Community Projects Administration under this pattern was an *ad hoc* organisation and became a normal wing of the Government of India only after the Administration was incorporated into the Ministry of Community Development with effect from September 20, 1956.

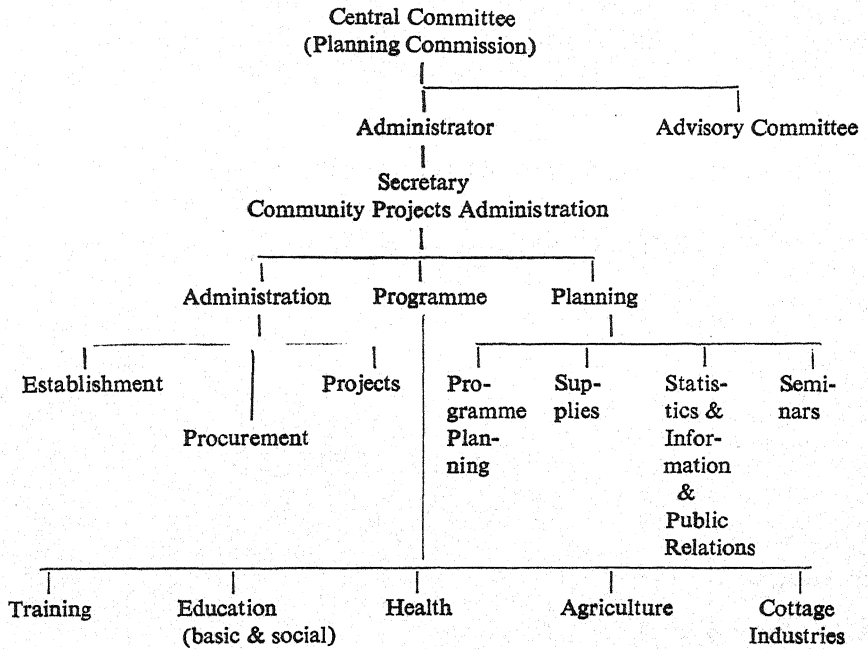
While, thus, a fundamental change in administrative pattern took place at the Union level, it continued at the State level to be in the

⁶Report of the Community Projects Administration, 1953-54, New Delhi, Planning Commission, Appendix VIII.

same form as was envisaged even at the beginning of the programme.

<i>Components of C.D. Programme</i>	<i>Number of the item in the List as given in the Constitution</i>	<i>Description of the item as found in the List</i>
1. Development of pan-chayats and higher tiers of local self-government institutions.	List II, 5	Local Government, <i>i.e.</i> , the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.
2. Development of co-operatives and agriculture finance.	List II, 30	Money-lending and money lenders; relief of agricultural indebtedness.
	List II, 32	Cooperative societies.
3. Development of voluntary organisation.	List II, 32	Other societies and associations.
4. Agricultural extension and development, including development of fisheries and forests.	List II, 14	Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases.
	List II, 19	Forests.
	List II, 21	Fisheries.
5. Extension in and development of animal husbandry.	List II, 15	Preservation, protection and improvement of livestock and prevention of animal diseases, veterinary training and practice.
6. Education in rural areas.	List II, 11	Education including universities, subject to the provisions of entries 63, 64, 65 and 66 of List I and entry 25 of List III.
7. Social education.	List II, 12	Libraries, museums, and other similar institutions controlled or financed by the State.
8. Minor irrigation and reclamation.	List II, 17	Water, <i>i.e.</i> , water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to provisions of entry 56 of List I.
9. Training in and development of small arts and crafts.	List II, 24	Industries subject to provision of entry 52 of List I.
10. Public health in rural areas.	List II, 6	Public health and sanitation, hospitals and dispensaries.
11. Communication—minor roads, causeways, culverts, etc.	List II, 13	Communications, <i>i.e.</i> , roads, bridges, ferries and other means of communication not specified in List I.

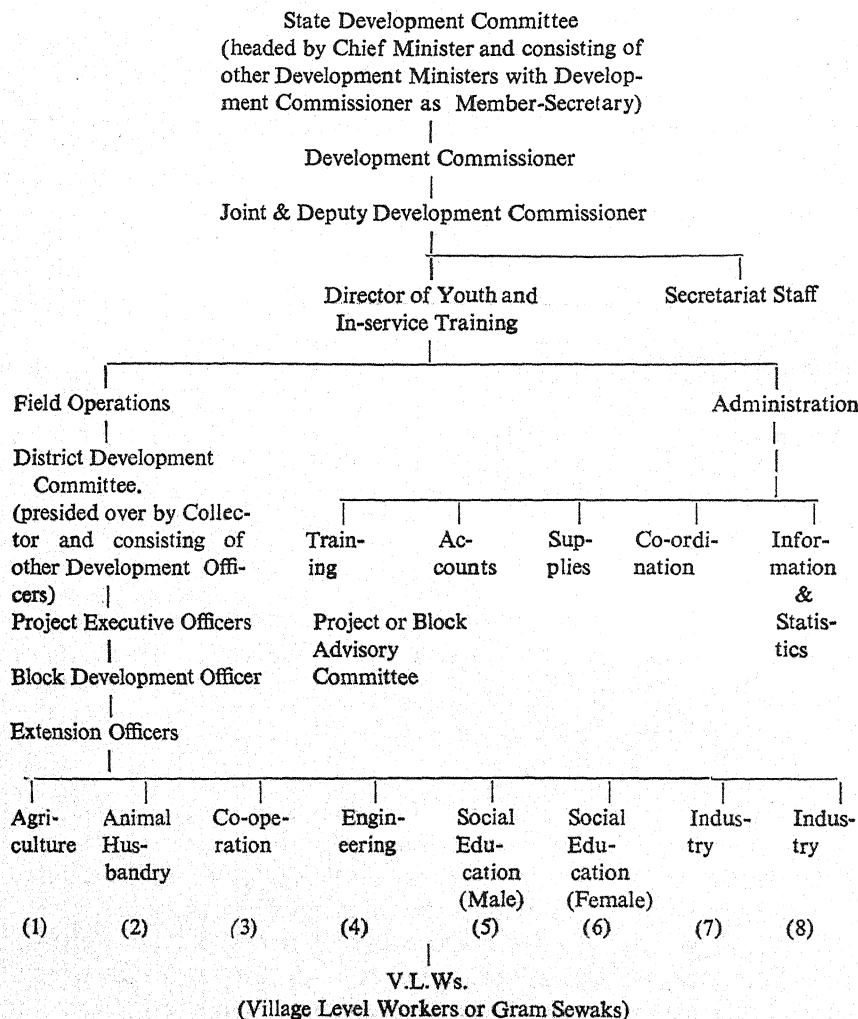
THE ADMINISTRATIVE SET-UP OF THE COMMUNITY PROJECTS
ADMINISTRATION AT THE CENTRE



Thus, the organisation at the Union level is essentially a staff organisation with only Secretariat staff and a set of advisers and only at the State level has been evolved a full-fledged line organisation running right down to the village level with coordinators and technical experts at each level. Over years, the Union and State organisations have worked in such great unison that the Union Ministry has found it possible to use the State Organisation as almost its direct operational instrument rather than a distinct administration of an autonomous unit of a federal structure. The State administration and the men who handle it have almost developed an allegiance to the Union Ministry and the men who run it. This cohesion has to be traced not to any constitutional provisions but to certain factors in the administration of the programme itself. And it is these latter which are discussed below.

Uniformity of Policy Decisions

The basic decisions in respect of this programme have been taken in the main by the Union and have been made effective by States with

COMMUNITY DEVELOPMENT ADMINISTRATION IN STATES⁷

minor alterations. The basic decisions could well be summed up as follows :

1. The block, consisting of 100 villages, a population of 66,000 and a compact area of about 300 sq. miles is the unit of community development.
2. The village level worker in charge of about 10 villages will

⁷Community Project Administration, *Manual of Village Level Workers*. The Chart is slightly adapted.

- be the multipurpose agent of *all* the development departments at the village level.
3. The block level machinery will consist of a team of 7 or 8 extension officers of the technical departments headed by the block development officer.
 4. The design of the programme will be of a multipurpose character making financial provisions for agriculture, animal husbandry, industry, education, social education, communication and public health.
 5. The Centre has not only indicated the broad multi-programme pattern of community development, but has, over a period of time, also indicated the major schemes which should be implemented under every head.
 6. The phasing of the programme will consist of : (a) a pre-extension stage, (b) stage I, and (c) stage II, with a uniform budget pattern at each stage.
 7. In a phased manner indicated by the Union all the villages will be covered by 1963.
 8. The selection of an area for the location of the block will be made on the basis of the test of self-help and self-reliance.
 9. There will be a 'democratic decentralisation' of development administration with a Panchayat at the village level, a panchayat samiti at the block level and a zila parishad at the district level. Paradoxically enough, this decentralisation pattern is being ushered in progressively in all the States under vigorous Central direction.
 10. The village panchayat, the service cooperative and the school as the community centre will be the three basic institutions in every village community.
 11. For all works programme there will be a prescribed measure of people's participation in cash, kind or labour.

Professor Adarkar, while commenting on the division of functions in the German Constitution, refers to what are called "The normative powers of the Federal Legislature". The German Constitution (existing at the time when Professor Adarkar wrote his book) provides for "normative legislation in regard to certain subjects, requiring the States to follow the norms set up by the Federal Government and fill in the necessary details."⁸ The Indian Constitution mentions no such category of normative functions; yet what the Union has done in respect of the community development programme is indeed to lay

⁸B.P. Adarkar, *Principles and Problems of Federal Finance*, London, P.S. King, 1933, p. 23.

down such norms whose influence is astonishingly pervasive and effective and has indeed given rise to apprehensions that the programme has become too uniform and stereotyped to allow for regional variations and local differences. Indeed the ministry at the Centre have themselves indicated the pattern to suit different regions like hilly areas, dry and desert areas and coastal areas, etc. But again it is the Union Government who have brought out the need for regional variations and have indicated the manner of adjusting the programme to local variations.

Financial Participation of the Centre in Community Development Block Budget

Such Central direction as has been indicated above in respect of policy matters pertaining to community development would perhaps hardly have been possible but for the fact that a substantial portion of the financial burden of the programme is borne at least initially in stage I and stage II by the Central Exchequer. All loan expenditure, 75 per cent of the non-recurring expenditure and 50 per cent of the recurring expenditure, is borne by the Central Exchequer. In a federal structure the comparatively greater elasticity of Union resources as compared to the State resources generally leads to an increasing reliance by the State Government on the Union Government who gives grants-in-aid sometimes unconditional but more often 'with strings'. It is through these conditional grants-in-aid that the Union Government imposes a measure of uniformity on the State Government. But the technique of 'shared schemes' which has been increasingly adopted in respect of various schemes of the five year plan has led to the acceptance by the States of several 'package programmes' of which the community development is the leading instance and has also led to States' obligations "to match the federal dollar".

Centralised Organisation and Direction of the Training of Community Development Personnel

The recruitment of the entire community development personnel—block development officers, extension officers and the village level workers—has no doubt been completely left to the State Governments; but in the training of the personnel, the Union has taken either direct responsibility or has decisively influenced the pattern of training institutions as well as the content of the training. The expenditure on these training schemes and institutions is debited to the Central Exchequer. The community development movement has been able to establish a chain of training institutions providing training to community development personnel from top to bottom.

At the apex of these training institutions is the Central Institute

for Study and Research in Community Development, Mussoorie, which was established in June 1958 for providing facilities for study in community development and allied subjects to members of parliament and members of legislative assemblies, top level administrators (including collectors, commissioners and secretaries) and technical personnel (heads of technical departments) from various States. The Research Wing of the Institute is to give necessary leadership and guidance to other training centres like orientation training centres, social education organisers' training centres, etc.

In February 1959, the ministry established the Trainers' Training Institute (subsequently christened as Instructors' Training Institute at Rajpur near Dehra Dun) for imparting training in teaching techniques to the training staff in the orientation training centres, social education organisers' training camps and extension training centres.

Next in the echelon of training institutions are the orientation training and study centres—so far eight in number—providing for orientation, job and refresher training to block development officers and other extension officers. For the courses run in these institutions, seats are allotted to various States according to their requirements. These centres provide opportunities—very rarely available otherwise to the junior personnel of the State cadres—to come together, know each other and benefit from mutual experience. The training centres for social education organisers and mukhya sevikas (six centres having two units, one each for the training of men, social education organisers and mukhya sevikas, four for training mukhya sevikas exclusively, and two for non-social education organisers only) are also similarly run by the ministry of community development extending the benefit of their training facilities to officers of various State Governments. Training for the gram sevikas and gram sevaks—men and women workers at the village level—is imparted in numerous training centres and their Home Science Wings run by the ministry of food and agriculture in conjunction with the State administrations. As regards the other extension officers of technical departments, the ministry of commerce and Industry conducts an integrated course for training of extension officers (industries)—3 months' training in Small Industries Service institute and 8 months' training in Khadi Gramodyog Mahavidyalaya; the ministry of health imparts training to health personnel engaged in community development areas in three Orientation Training Centres and the Central Committee of the Reserve Bank of India imparts training to extension officers (cooperation) in eight centres under its control.

Thus, other central ministries have joined the ministry of community development in the massive effort to train the vast number of block personnel working in all parts of India. The same training

facilities are made available to the non-officials at all levels—to members of parliament and members of legislative assemblies and zila pramukhs (chairmen of district local boards) at the Mussoorie Institute, to the chairmen of block development committees or block samiti at the orientation training centres, to the members of the Samiti in centrally-financed courses run by non-official institutions sponsored by the States and to the village leaders at the training camps.

The normative influence of the Centre is also felt in the prescription of job charts of the village level workers, extension officers and block development officers.

Conferences, Seminars and Literature

The annual conference of development commissioners convened by the ministry of community development and organised by the host State Government brings together the top officials of the State departments, dealing with community development programme and headed by the development commissioner, and the Central Government officers for discussions of important issues arising out of the previous year's working of the programme. The extensive agenda of these conferences generally reflects the thinking of the ministry of community development, and effectively though apparently with the voluntary acquiescence of the State Governments, the decisions of these conferences divert the programme into centrally laid-out channels. Besides these, many other periodical and occasional conferences of the State Directors of In-service Training, of Directors of Youth, etc., constantly serve to promote conformation of State programmes to centrally indicated norms. These conferences even extend to the State personnel at the grassroot—as witness the recently conducted meeting of the best village level workers.

What the conferences do through the spoken word, the books do through the written word. Literally hundreds of books on various aspects of community development have been brought out during the last few years—books of all sorts—manuals, pamphlets and blue-books reports and reviews, posters, folders and broad-sheets which have reached blocks in the nook and corner of the country. And the production of all this literature has been substantially concentrated in the hands of the ministry of community development. Above all, 'Kurukshetra' and 'Gram Sevak' have established themselves as the organs of national thinking on community development.

Miscellaneous schemes of various sorts have also extended the central influence. To mention an outstanding scheme of this sort would be the prize competitions for village level workers and villages the best of which not only at the national level but also at the

State and district levels become recipient of prizes awarded by the Union Government.

Programme Evaluation Organisation

Just as the audit of not only the Central Government accounts but also of the State accounts is conducted by a central agency so also the evaluation of C.D. blocks in all States is done by the Programme Evaluation Organisation under the Planning Commission whose annual reports influence the State administrations of the community development programme.

IV

From the above, it will be reasonable to conclude that in an exclusively State sphere of activity, the Union Government has effectively stepped in as a partner and that too a senior partner not by invoking any extraordinary clause of the Constitution but through the normal processes of administration. The Central influence is felt on State administrations of community development as a result of the ministry of community development laying down policies and norms for implementation of the programme, establishing training institutions and imparting training facilities to State personnel, substantially participating in a 'package programme', conducting periodical conferences, meetings and seminars and producing a constant stream of literature. No influence is stronger than that over men's minds and the ministry of community development has relentlessly pursued the State Governments and their personnel in the indoctrination into its ideas.

V

In conclusion, one may well reflect as to how far such central tendencies are desirable. Those having almost a sentimental attachment to the sacred doctrine of State autonomy will cry immediate halt to what they might consider to be federal incursions in the domain of State authorities. But the desirability can also be considered from the standpoint of the effect of such tendencies on the promotion of the ends of the Welfare State. There is no gainsaying the fact that but for Central-State partnership in the programme, it would hardly have been possible to bring into existence throughout India an administrative machinery of a Welfare State in action extending right up to the village level with uniformity of pattern and nomenclature, comparable in its integrity and pervasiveness and superior in training and equipment, to the law and order or revenue machinery set up by the erst-

while British rulers. No doubt even without the Union Government in the picture, every State would have taken steps to strengthen the rural development machinery, but that would have had heterogeneity and unequal intensity. Only less impressive than this are the gains derived from pooling—pooling of training facilities, finance and above all of knowledge, and experience. The pooled experience of all the States is available to every State for it to pick and choose. The Union Government has effectively acted as a purveyor of proved ideas and experiences. As against these gains may be pitted the disadvantages arising out of uniformity and rigidity which exponents of local freedom would doubtless view with dismay, apprehension or even alarm. Nor are these latter utterly unfounded. The blind application of set formulae, schemes and remedies is not an unusual phenomenon. A uniform budget may not meet the needs of every area. A health unit may not be required for an area saturated with health facilities, *e.g.*, Coorg. There may not be scope for utilising the fixed minor irrigation budget in an area entirely covered under a major irrigation project. But, by and large, India's countryside is uniformly underdeveloped and if the fixed 'package programme' ensures a 'national minimum of amenities' it has all to be welcomed. After all the Central influence is mainly of a normative character and the operational aspects are almost entirely left to the State Governments, who can doubtless introduce elements of elasticity and flexibility by adapting and adjusting the overall programmes to suit the local variations and needs.

□

The Centre-State Consultative Machinery in India*

Shriram Maheshwari

BUSINESS OF governance calls for continual consultation¹ among the various levels of governmental hierarchy. This should be axiomatic. Consultation, however, undergoes a qualitative change in federalism with its separate, largely independent yet inter-dependent levels of government. In a competitive polity, it is indispensable and goes far beyond a mechanical function of saying one's piece. This, too, should look incontrovertible. The first kind of consultation referred to in the opening sentence is intra-governmental taking place in both unitary and federal governments—indeed, in all systems of government. The second one is inter-governmental and constitutes the theme of the present paper.

Consultation between the Centre and the States is not only unavoidable but desirable also. By providing a sense of participation to both and by augmenting inputs in decision-making it makes for the harmonious functioning of the federation. In addition, there are pragmatic reasons also which point at the need for cultivating a network of consultation on matters incidental to federalism. Despite a formidable list of functions which the Constitution of India confers on the Central Government, the crucial tasks of nation-building—agriculture,

*From *Indian Journal of Public Administration*, Vol. XVI, No. 3, 1970, pp. 430-52.

¹It may be conducive to clarity of thought if one acquaints himself with the meaning of 'consultation'. A celebrated philologist gives the following definition: "Consult... is a frequentative of *consulo*, signifying to counsel together... *Consultations* always require two persons at least,... an individual may *consult* with one or many.... advice and information are given and received in *consultations*... We communicate and hear when we *consult*;... those who have to cooperate must frequently *consult* together..." (George Crabb: *English Synonyms*, 1920 centennial edition. This is a fairly detailed definition of consultation as a process and in its basic purposes, though the motives beneath it may be more numerous ranging from promotion of broadly uniform administrative patterns among the constituent states to deliberate delay in decision-making.

education, health, etc.—along with many regulatory functions like law and order remain lodged with the constituent states. This makes the Central Government critically dependent of the former in its move to take the nation forward. In such a relationship, Central directives have virtually no place and consultation is thus the only technique to make the autonomous states develop broadly agreed programmes which constitute the lynch pin of a welfare State.² The existence of concurrent list in the Constitution making as many as forty-seven subjects open to legislation both by the Centre and the States makes Centre-State consultation imperative.³ There is yet another aspect of this question. As the Central Government⁴ in India calls on the individual States, in most matters, for implementation of its decision, it is but proper on its part to consult the States on such issues the brunt of which is to be borne by the latter. Even otherwise, the exigencies of a situation may either compel or commend consultation with the Centre or with the State (or States). This in practice is done by both the levels of government as and when necessary.⁵

The consultative machinery as an integral part of the machinery of government acquires an attribute of indispensability in view of the fluidity which presently marks the country's politics—a situation we should learn to live with for quite some time to come. During the period of one party dominance the use of the consultative machinery was in a way, even optional, as Centre-State or inter-State disputes used to be settled along the familiar political network. Since 1967, however, the Congress as a political force has been on the way out, causing in its wake a political vacuum all along the line. Consequent on a sudden and drastic weakening of the political network, use of the consultative machinery is apt to become more compelling and what is more, pressure on it would increase, necessitating its diversification and differentiation.

²This point greatly struck Paul H. Appleby, "The power that is exercised organically in New Delhi is the uncertain and discontinuous power of prestige. It is influence rather than power. Its method is making plans, issuing pronouncements, holding conferences. In reference to two different programme fields I have been authoritatively informed at both the Centre and in the States that the Centre's administrative function is performed by annual or semi-annual conferences. (*Public Administration in India—Report of a Survey*, New Delhi; Cabinet Secretariat, 1953, p. 17).

³In future the initiative in this area is likely to remain with the States, necessitating consultation with them if the Central Government is to invoke the concurrent list.

⁴In contrast to India the American federalism has a dual executive system; the federal legislation is implemented by the federal agencies and the State legislation by the State authorities.

⁵This is covered under the third category, discussed later in this paper.

II

While the need for machinery of consultation between the Central and State governments is undoubted and great, its development remained slow and stunted for want of demand for it. This is to be accounted for by the hegemony of the same political party namely the Congress at both levels of government and its extraordinarily unitary structure. As a consequence, what were essentially administrative issues and problems normally expected in a typical federation solution through and by the regular governmental hierarchies used to be discussed, debated and finally resolved through the party machinery to an almost total exclusion of the former. This was largely possible because of the towering personality of Jawaharlal Nehru who had himself emerged as the final court of appeal on an amazingly wide range of subjects including those directly impinging on Centre-State relations and thus a powerful agent of centralisation in the country. All this reinforced the rigour and discipline of five-year plans in making the States succumb to central pressure and, in effect, converting a territorially horizontal federation into a functionally vertical one. Such a circumstance was unhelpful for 'consultation' to grow in the true sense of the term, for, in practice, it could hardly remain distinguishable from imposition and even dictation. While this is broadly true, the States, too, on occasions, succeeded in bending the Centre to their wishes by successfully invoking the party channels. And, since 1962 the national political network started showing sign of becoming favourable to the States emboldening them to ask for and even strike better bargains with the Centre. (They were becoming adults.) This new development threatening the hitherto unchallenged Central supremacy was a direct consequence of the NEFA debacle and Nehru's perceptibly failing health and prestige. The Fourth General Election (1967) formally registered these changes causing the Congress's slashed majority in national parliament and in many State legislatures and erosion of political power in the remaining ones.

CLASSIFICATION OF CONSULTATIVE MACHINERY

The consultative machinery between the Central and the State governments may be said to fall into three broad categories. The Constitution itself has visualised institutions to this end. Article 263 envisages an inter-state council charged with the duty of:

- (a) inquiring into and advising upon disputes which may have arisen between States;
- (b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest: or

- (c) making recommendations upon any such subject and, in particular, recommendations for the better coordination of policy.

Although the inter-State council has not yet been set up, the Article was expressly invoked in 1952 and 1954 when the Central Council of Health and the Central Council of Local Self-government were respectively established by the Central Government to discuss matters relating to health and local government both of which are in the State field. Article 262 lays down an adjudicating machinery for settlement of inter-State river water disputes which, in 1956, got crystallised in the shape of Inter-State Water Disputes Act. Although this Article stipulates arbitration, consultation takes place between the Centre and concerned States before it is invoked. This was disclosed by the Deputy Minister in the Central Ministry of Irrigation and Power when questioned on certain pending water disputes. His reply was: "A further effort is being made to settle these disputes through negotiations, failing which these will be referred for adjudication under the Inter-State Water Disputes Act, 1956".⁶

The second category comprises a network of conferences and councils brought into existence by the Central Government to act as institutionalised channels for consultation with the States on a wide variety of subjects. These bodies are mostly *ad hoc* ones convened under the executive order although a few like zonal councils are statutory in origin and at least three of them—the National Development Council, the Central Council of Health and the Central Council of Local Self-Government—owe their existence to the resolutions of the central government. They mostly abound in areas earmarked to the States under the constitution and have been utilised as much for humdrum coordinational purposes as for exchange of views and sharing of experiences. Their number has been steadily increasing and, today, there is hardly any central counterpart of a state department which keeps itself deprived of the honour of convening a conference!

In addition to the conferences at the national level, they are also held at the regional level, the well-known among these being the zonal councils⁷ five in number and set up under the States Reorganisation Act, 1955.

These conferences take place at political, administrative and profes-

⁶*Lok Sabha Debates*, Fourth Series, Vol. XXVI, No. 26. March 24, 1969, col. 129.

⁷For a discussion of the role of zonal councils in Centre-State relations see the author's *Indian Administration*, New Delhi, Orient Longmans, 1968, pp. 189-92. Also see the author's: (i) "Zonal Councils: A Study of the Northern Zonal Council" in A. Avasthi and S. N. Varma (Edited): *Aspects of Administration*, New Delhi, Allied, 1964, pp. 104-26; and (ii) "Zonal Councils in the Indian Federal System—A Case Study" in *The Economic Weekly*, July 17, 1965, pp. 1131-7.

sional levels. The National Development Council, the Chief Ministers' Conference, and the conferences of ministers of different departments are examples of conference at the political level. They have been in existence for a fairly long time and at least two of them, the Chief Ministers' Conference and the Food Ministers' Conference, are even of pre-independence vintage. One can have an idea about the sweep of these conferences from the following list, which is illustrative, not comprehensive :

1. The Central Council of Local Self-Government.
2. The Central Council of Health.
3. The Food Ministers' Conference.
4. The Conference of State Home Ministers.
5. The Conference of State Finance Ministers.
6. The State Education Ministers' Conference.
7. The Conference of State Ministers of Agriculture.
8. The Conference of State Ministers of Cooperation.
9. The State Labour Ministers' Conference.
10. The Conference of State Ministers of Community Development.
11. The Conference of State Ministers of Social Welfare and Welfare of Backward Classes.
12. The State Housing Ministers' Conference.
13. The Conference of State Ministers of Irrigation and Power.
14. The Conference of State Ministers for Town and Country Planning.
15. The Conference of State Information Ministers.
16. The Conference of State Ministers of Cultural Affairs.

The conferences at the administrative level include the chief secretaries' conference and the conferences of various functional secretaries. They are all *ad hoc*. While the central minister concerned presides over the conference held at the political level⁸, the secretary in the central department acts as the chairman in the secretaries' conference. The conference of Chief justices of State High Courts, presided over by the Chief Justice of India, the conference on Irrigation and power attended by State Government engineers and heads of river valley projects and the conference of vice-chancellors are among the conferences held at the professional level although the first one does not fall within the executive branch of the government.

Consultation between the Centre and the States also travels on paths, less glamorised and publicised no doubt but certainly more constructive and positive in intent. This, which is the third category,

⁸The President of India presides over the Governors' Conference.

is essentially in the nature of a (mostly written) dialogue, frank and free because protected from public gaze, taking place as and when necessary. Numerous communications daily flow between the Central and State Governments on diverse subjects ranging from a central minister's visit to the location of a proposed atomic energy plant. This, indeed, constitutes the daily business of government, turning into 'consultation' only in the event of differences and disagreements between the Centre and State Government concerned. The adoption of planning in the country has unfolded a new dimension of almost continuous consultation between the Planning Commission and the States. The Planning Commission sets up panels consisting of representative of Central Government as well as of States to examine subjects of common interest. Also, the five year plan is discussed with the States at official, ministerial and chief ministers' levels before it receives the imprimatur of the National Development Council. All this consultation, however, takes place through 'proper channels' but sometimes there is even an inspired leakage in the press in a bid to back the State's demands with public opinion. Under this category may also be included these oral conversations, seldom reduced to writing in detail, between 'opposite numbers' to informally 'arrange' the matters. This area of operations, full of insight and fascination no doubt, may not be adequately explored presently in the absence of memoirs by politicians and civil servants.

Yet, currents flowing on subterranean paths do not completely remain unnoticed and unheard. It is, for instance, known that the chief minister is invariably consulted on the appointment of governor to his State. "As an extra constitutional convention the chief minister of the State concerned is informally consulted before appointing any individual as governor of the State."⁹ He is also consulted in the appointment of Chief Justice in the State's high court. One can easily recall other instances of similar consultation but the point which ought not to be overlooked is that the degree and even effectiveness of consultation in this category has depended on the position a chief minister enjoyed in the party hierarchy in relation to those holding power at the Centre, his hold in the State, the degree of politicisation there, his capability in whipping up popular agitation in case he is ignored by the Centre, etc. It was, for instance, not possible for the Central Government to appoint a governor in a State like U.P. without the complete agreement of Govind Ballabh Pant, its then chief minister. A certain governor was quietly transferred in mid-term at the behest of his chief minister. Such things were, however, done informally without any public knowledge, much less debate. Infor-

⁹Observed by the Minister of State in the Ministry of Home Affairs as reply to an interpellation, *Parliamentary Debates, Rajya Sabha*, Vol. LXVII, No. 25, cols. 6008-9.

mal consultation has both advantages and disadvantages. It certainly eases the tasks of governance but at the same time allows the mushrooming of power-centres owing loyalty to factors like regionalism and linguism, etc., cutting across the political and administrative levels. Emergence of lobbies at the administrative level constitutes a threat to any polity, for these have the knack of functioning stealthily.

COMPOSITION AND FUNCTIONS OF SOME IMPORTANT COUNCILS/ CONFERENCES

It is but logical now to turn our attention to a few conferences and councils with a view to describing, albeit in brief, their composition and functioning. For such a treatment the following bodies have been selected:

- (i) The Governors' Conference.
- (ii) The National Development Council.
- (iii) The Chief Ministers' Conference.
- (iv) The Chief Secretaries' Conference.
- (v) The Conference of Inspectors-General of Police.
- (vi) The Central Council of Local Self-Government.
- (vii) The Conference of Municipal Corporations.

The first three are functioning at the political level. The next two are officers' conferences operating on the administrative plane. The last two have been selected for they deal with local government, thus indicating the stretchiness of the Centre's interest even to the level of grassroot government.

The Governors' Conference

The governors' conference held regularly since the inauguration of the present Constitution is, historically, a continuation of a much older arrangement under which the governor-general used to call the conference of governors who, under the earlier dispensation, were the real, not nominal, executives. The governors' conference meets annually, each meeting continuing for two days. The President of India is the chairman of the governors' conference. The Vice-President and the Prime Minister also attend; other central ministers are also invited, depending on the agenda. The agenda of the conference consists of items suggested by the Central Government as well as those sent by individual governors. Generally, the governors' conference holds its discussions under two heads, namely, law and order and development.

The rationale of the governors' conference lies in its being a source of information to the Central Government on matters concerning the States, which is independent of the State-governmental machi-

nery. This is a forum where the President-appointed governors apprise the President frankly and directly with the political, social and economic situation in their respective States.

Until 1967 this body was virtually without any use. As almost all States had stable and, what is more, Congress governments, the government at the Centre ruled by the Congress found practically little use in a forum like the governors' conference. The political network was live and effective as a line of communication between New Delhi and State capitals. The political fluidity resulting from the Fourth General Election (1967) reflecting in and, in turn, getting aggravated by, the spectacle of 'ayachands' and 'gayachands' caught the governors napping, as it were, swinging them in the mainstream of political decision-making. Who was to be invited to form the government in the State; how was majority in the State legislative assembly to be tested; how claims and counter-claims of different political parties in the State legislature were to be examined were only some of the questions demanding almost instant answers from the governors. These are among the questions that the Governors' conference has been discussing since 1967 and has, therefore, become a forum useful to the bewildered governors, codifying gubernatorial responses towards questions like the above.

As the real executive in the State is the chief minister, the Governors' conference has often been treated by some governors as a forum to press for their States' demands. The Centre is unlikely to succeed in imposing its will on the States as the governors are, in normal times, mere constitutional heads. But the States, at least those having more possessive chief ministers, make it a point to brief their governors to lobby for them in the Governors' conference. As a consequence, the Governors' conference has been tending to project the States' demands direct to the font of power—the President (who is the chairman) and the Prime Minister (who remains present in the meeting).

The National Development Council

The National Development Council,¹⁰ set up in 1952 under a resolution of the cabinet secretariat, is the key institution in the sphere of Centre-State relations. In addition to the function of laying down guidelines for the formulation of the five year plan, approving and reviewing it and securing its coordinated implementation, the National Development Council concerns itself with important questions of social and economic policy affecting national development.

The National Development Council consists of the Prime Minister, the chief ministers of all states, the central cabinet ministers and the

¹⁰A more detailed account is given in the author's *Indian Administration*, New Delhi, Orient Longmans, 1968, pp. 86-103.

members of the Planning Commission. The Prime Minister is its chairman. The council meets at least twice in each year, each meeting continuing for two days. It has set up a standing committee which meets more frequently.

Till 1962 the National Development Council was a forum which kept the balance of power in the federation tilted in favour of the Central Government. From then onwards the political power-structure started swinging in favour of the States. The National Development Council had almost a new birth in 1967. Since then it has come to be increasingly reckoned as a bargaining counter where the States are too anxious to wrest the maximum from the Centre and each State pleading most vigorously for a maximum share in the central largess for its use. This role of the National Development Council is unlikely to disappear in the foreseeable future. The Central Government, surviving on precarious coalition or quasi-coalition, evidently lacks the capacity to decisively assert itself. The States on their part have come to be ruled by political leaders who have parochial outlook, seldom raising their head much above their individual States. The Council's meeting held in March 1970 is a fairly reliable pointer to the likely shape of things to come.

Beneath the political postures adopted by different States lie the hard economic realities. That politics was subservient to economics was made evident by the deliberations at the Council, which cut across political alignments. The States confronted the Central Government with complete unity and almost in the same breath, gave ample indication of inter-State differences, both kinds of role being imposed on them by the prevalent economic conditions. The Congress chief ministers joined hands with the non-Congress ones in demanding an upward revision of the States' outlays in the Fourth Five Year Plan. At the same time, the States stood divided between the 'haves' (Maharashtra, Tamil Nadu, Punjab and Gujarat) and 'have nots' (Madhya Pradesh, Andhra Pradesh, Mysore, Bihar, Uttar Pradesh and Rajasthan). An illustration of such a division is provided by the wrangling over the interpretation of 'backwardness' on which depended the quantum of Central financial assistance to the States. Ultimately, the developed States succeeded, much to the chagrin of their less fortunate sisters, in prevailing upon the Planning Commission to accept a more generous definition of backwardness than what was proposed by the Pande Committee on this subject and, as a result, secured eligibility to concessions and financial assistance made available to the backward States for their development. But by far the largest effort of the State is devoted to the securing of maximum economic advantages for itself from the Central Government although few may like to emulate in this respect. Tamil Nadu which brusquely demanded that the former sanction a steel plant to it "here and now or face his (the Tamil Nadu

chief minister's) opposition to the Fourth Plan".¹¹

A few other points emerging from this meeting are also worth noticing. The Council insisted on voting in the meeting. It departed from its earlier practice by not approving the five year plan unanimously; the plan was passed only by a majority decision. Besides through a 'directive', it urged on the Central Government to reassess the Central and State plans, which evoked the cryptic comment from D. R. Gadgil, the deputy chairman of the Planning Commission: "quantum may be changed a little here and there—no more".¹²

Apparently not satisfied with the present manner of the Council's functioning, the Central Government appears to be exercised over how to improve it. With this in mind, it arranged separate meetings of the Congress and non-Congress chief ministers before the formal Council meeting, and again held, after the Council had formally concluded its meeting, its 'informal' session from which the customarily attending members of bureaucracy were kept out. The latter move was calculated to take the heat out of the formal National Development Council discussions. Secondly, as a newspaper commented, "this departure from practice . . . has a wide significance. If the results justify, the National Development Council could gradually take on the functions of the inter-State council . . .".¹³

It is plausible that the States, too, might be thinking of making the Council more effective than it presently is. Punjab, for one, has a plan for its reorganisation, which it disclosed early in 1970. Punjab felt that the discussions in the National Development Council were hustled through rendering any free and frank exchange of views 'impossible'. "The chief ministers are each allotted a few minutes to speak and at the end of the day decisions are announced. The decisions appear to be preconceived and the entire discussion seems to be wasteful and fruitless." As the Council meets for a day or two and, further, as it is called upon to pronounce its views on several important and complex problems, the chief ministers are left with hardly any time to grasp the implications of all proposals. As a way out, it suggested that the National Development Council be assisted by a 'standing advisory committee' consisting of official advisers from each State and representatives of Central Government ministries concerned and the Planning Commission. The proposed standing committee would lay under thorough examination the agenda items and the notes prepared by the Planning Commission and vet these before they are put up to the Council.

¹¹Vide *The Times of India*, March 22, 1969.

¹²*Ibid*, April 22, 1969.

¹³*Ibid*, April 17, 1969.

Chief Ministers' Conference

Like the National Development Council, the Chief Ministers' Conference is the summit meeting of the chief executives of the Central and State governments. The distinction between these two bodies is as between Dr. Jekyll and Mr. Hyde.

The Chief Ministers' conference dates from 1946 when Vallabhbhai Patel, the home member in the interim Central Government, convened the Premiers' conference to secure agreement to the formation of the 'Central Administrative Service' (meaning the IAS) and the Indian Police Service. It has been meeting every year since then, the frequency in a certain year depending upon the gravity of issues warranting notice of chief executives as well as the predilections of the Central leadership.

The Chief Ministers' Conference discusses the whole range of matters concerning the States except, of course, the Five Year Plan, for which the appropriate forum is the National Development Council. The demarcation between these two bodies has been, however, indistinct. The Chief Ministers' Conference has repeatedly discussed the food problem in the country, a subject which may equally appropriately be discussed in the National Development Council. The Chief Ministers' Conference meets more frequently than the National Development Council and is convened as and when some problem considered to be of sufficiently wide importance so as to deserve the direct attention of the chief ministers arises. It usually holds a two days' session. The Prime Minister presides over the Conference which is also attended by other central ministers concerned with the agenda of the meeting. The items for the agenda are submitted by both the Centre and the States although, in practice, the initiative has always rested with the Centre.

The Chief Ministers' Conference is potentially an important forum for the discussion of issues and harmonisation of relationship between the Centre and the States. Although it may not always produce a set of agreed decisions, it may be helpful in reducing the mental distance between the Union and the States as also among the States themselves. It is the only forum where the consensus of the States on emerging problems may be ascertained. Consequent upon the weakening of the Central Government since 1962 and definitely since 1967, the Chief Ministers' Conference has emerged as a powerful body to discuss and regulate the Centre-State and even inter-State issues. What is more, in future, again flowing from the Centre's weakened position, to this body may be diverted, for its decision, many questions which would have normally remained with the Central Government for settlement. The recent decision of the Prime Minister to refer Tamil Nadu's request for a separate flag to the Chief Ministers' Conference is a significant pointer. The Central Government may in future deliberately de-emphasise its role as a decision-maker in many Centre-State and

inter-State matters and may increasingly invoke this forum to opine on them, thus saving itself from the odium of displeasing a State (or States) with which it is for political reason too keen to remain on coalition terms.

The Chief Secretaries' Conference

The Chief Secretaries' Conference is attended by the chief secretaries of States and presided over by the cabinet secretary in the Central Government. The first Conference was held in 1965 to discuss the law and order situation in the country and although it was expected to become an annual occurrence it has not been meeting regularly. The agenda discussed in the Conference consists of items sponsored by both the Central Government and the States. Like the Chief Ministers' Conference, this forum apparently finds nothing which it is prohibited from discussing; it is an open-ended Conference. And, it is this 'open-endedness' which severely restricts its utility as a forum for meaningful discussion. As it is called upon to discuss the whole gamut of subjects concerning the States, it should either agree to meet for a much longer duration (which is unlikely) or the agenda of the Conference may be broken up into functional components each to be explored in the appropriate functional secretaries' conference, rendering the Chief Secretaries' Conference redundant.

Yet, there is a rationale for a body like this, which lies in the steering work it may accomplish for the Chief Ministers' Conference. Its utility flows directly from the inevitable imperfection of the Chief Ministers' Conference : as the chief ministers cannot spare much time to discuss problems in a detailed way, it may be necessary for the Chief Secretaries to meet and engage in in-depth examination of the issues. In its present form, the Chief Secretaries' Conference is not organically linked up with the Chief Ministers' Conference. Its agenda is completely independent of that of the Chief Ministers' Conference. Its meetings are not timed with the Chief Ministers' Conference. If it is convened *before* the Chief Ministers' Conference to engage in preliminary exploration of subjects coming before the Chief Ministers' Conference, it may perhaps become a useful forum optimising the effectiveness of the latter.

The Conference of Inspectors-General of Police

The inspectors-general of police of the States meet to discuss matters like crime, law and order as well as those relating to the police. As crime is not a respecter of State boundary, a conference like this ensures its examination from the national angle and measures to curb it may also be devised in a coordinated way. Secondly, the Centre maintains its own police establishments like the Central Reserve Police Force and the Border Security Force which have necessarily to

operate in close cooperation with the machinery of law and order of the States; this Conference gives its thought to the development of a coordinated approach to such operational problems.

The Conference of inspectors-general of police meets bi-annually each meeting continuing for three days. It discusses issues like crime situation in the country, suppression of immoral traffic in women and children, crowd and traffic-control, indiscipline among students, training of the police, morale of the police force, prevention and investigation of crime, police equipment and uniform, welfare of the police force, etc.

The inspector-general of police constitutes the third tier in the State's police hierarchy, the first two being the minister and the secretary in the police or home department. By convening the conference of inspectors-general of police the Central Government has extended its span of consultation right up to the level of the State directorate. Should the Central Government seek consultation with the State's political leadership (namely, minister) only or should it penetrate two steps further down coming face to face with the operative head of the police? As matters relating to police are, when necessary, already discussed in the zonal councils, what is that special advantage sought to be gained through this Conference which may otherwise remain elusive? If the Conference takes formal decisions on matters it discusses, it should be an intolerable situation; for this is a function of the State government; if it does not, it looks like an instance of over-consultation. As regards professional matters, these may be discussed at the sessions of the Indian Police Association which is the professional body of the police personnel.

The Central Council of Local Self-Government

The Central Council of Local Self-Government has been in existence since 1954 having been constituted by an order of the President. It consists of the central minister for health who is its chairman and the ministers for local self-government in the States. The Central Government had for the first time convened a conference of the local self-government ministers in August 1948, which laid stress on such annual gatherings. It even passed a resolution saying: "The conference is of opinion that to ensure coordination, a Conference of Local Self-Government Ministers should be held once a year." The Council is an advisory body. Its functions are:

1. to consider and recommend broad lines of policy in matters relating to local government in all its aspects;
2. to make proposals for legislation on matters relating to local government;
3. to draw up a common programme of action; and

4. to make recommendations to the Central Government regarding the allocation of financial assistance to local bodies and to review the work accomplished in different areas with such central assistance.

The Council held its first meeting in June 1955. It meets at least once every year, each meeting lasting for two days. The venue of the meeting changes every time. The Central Health Minister presides over the meeting but in his absence the members present choose one of their number to preside. The questions before the Council are decided by a majority of votes of the members present at the meeting. There is a provision for the experts and the technical advisers being invited to the meeting but they have no right to vote. The Council being a purely advisory body, passes resolutions at its meetings and also reviews the implementation of its decisions. At present, its jurisdiction is limited to the urban local government only.

The Conference of Municipal Corporations

Dating from 1959 the Conference of Municipal Corporations, originally known as the All-India Mayors' Conference, is convened by the Central Ministry of Health, Family Planning, Works, Housing and Urban Development. To begin with, it was a forum of the mayors of municipal corporations in the country. Its scope was later enlarged by including municipal commissioners also, and it has since been called the Conference of Municipal Corporations. The Central Minister for Health presides over its meeting which normally continues for two days. "By convening a Conference of Municipal Corporations the Central Government has for the first time devised a direct bridge with the local governments in the country. Local government is a State subject under the Constitution and is the direct responsibility of the State. The Central Government's attempt to forge a direct link with the local governments, by by-passing the States, raises grave constitutional issues besides undermining the authority of the States. A mayor is the first citizen of the city; it is worth examining the propriety of a central minister presiding over a conference of mayors. Finally, a forum like this is apt to eclipse the Central Council of Local Self-Government which is the organisation of the ministers for local self-government in the States."¹⁴

FORUMS : SUFFER FROM POSITIVE RESULTS

All these forums generally suffer from certain common short-

¹⁴Shriram Maheshwari: *Local Government in India*, New Delhi, Orient Longmans, 1970, Chapter III.

comings which tend to impair their effectiveness. The meetings are convened at short notice.¹⁵ The agenda papers are not made available to members well in advance¹⁶ to enable them to come prepared for

¹⁵The following table indicates the time-interval between the issue of notice and the date of meeting of a randomly selected sample of conferences. It should be noted that the transit time of a communication has not been taken into account here:

<i>Serial No.</i>	<i>Name of Conference</i>	<i>Date of issue of notice of the meeting</i>	<i>Date on which held</i>	<i>Interval</i>
1.	Conference of State Food Ministers	12 February 1964	23 February 1964	11 days
2.	Food Conference of Chief Ministers	17 June 1964	24 June 1964	7 days
3.	Conference of State Chief Ministers	9 October 1964	26 October 1964	17 days
4.	Chief Ministers' Conference (Ministry of Home Affairs)	21 October 1964	29 October 1964	8 days
5.	National Development Council	30 August 1965	5-6 September 1965	6 days
6.	Conference of Chief Ministers (Ministry of Home Affairs)	27 October 1965	8 November 1965	12 days
7.	Conference of Chief Ministers	6 July 1966	19 July 1966	13 days
8.	Chief Ministers' Conference	17 March 1967	8-9 April 1967	21 days
9.	Conference of Chief Ministers and Finance Ministers of the States	23 March 1967	10-11 April 1967	18 days

¹⁶The following table may be revealing:

<i>Serial Na.</i>	<i>Name of Conference</i>	<i>Date on which agenda notes issued</i>	<i>Date on which held</i>
1.	Conference of State Food Ministers	2 items on 18 February 1964 2 items on 19 Feb. 1964 1 item circulated on the day of meeting	23 February 1964
2.	Food Conference of Chief Ministers	on the eve of the meeting	24 June 1964 26 June 1964
3.	Conference of State Chief Ministers	25 October 1964	26 October 1964
4.	Chief Ministers' Conference (Ministry of Home Affairs)	That week	29 October 1964
5.	National Development Council	piecemeal on (16 July 1965 23 July 1965 26 & 30 August 1965 1 September 1965)	5-6 September 1965
6.	Conference of Chief Ministers (Ministry of Home Affairs)	3 & 5 November 1965	8 November 1965
7.	Chief Ministers' Conference	14 November 1965	16 November 1965
8.	Conference of Chief Ministers	18 July 1966	19 July 1966
9.	National Development Council	12, 13 & 17 August 1966	20-21 August 1966
10.	Chief Ministers' Conference	1 April 1967	8-9 April 1967
11.	Conference of Chief Ministers and Finance Ministers of the State	7 April 1967	10-11 April 1967

discussion. Often, the agenda papers are distributed on the day of the meeting itself, rendering it impossible for members to make any meaningful contribution to deliberations in the meeting. The agenda notes are copious in size, generally poor in quality and draftsmanship, lacking in pointedness and are not much enlightening on the problems and issues under examination. As reading habit is as yet rather scantily developed in our country, an average member gets more often than not scared by the mere volume of papers sent to him almost at the eleventh hour. Nor is there any felicitous compilation of the agenda for the meeting. A tendency much in evidence is to clutter it with trivial items, which has the effect of eclipsing the momentous issues figuring on the agenda in addition to being wasteful of the members' time. Moreover, the meetings become unwieldy in size, because each member brings to the meeting a number of officials apparently to assist him, many of whom have hardly any contribution to make. This happens because a member of the conference may not have the requisite confidence in his own ability to deal with the items on the agenda of the meeting and also because of a widespread craze for trips to Delhi (or to hill stations where several conferences meet). Furthermore, not all who come to a conference make it a point to be present in all its sessions. Generally speaking, the representatives avail of their chance to present their views after which they silently retire, apparently leaving it to the junior officers in their retinue to be present in the sessions. The ideal of all listening to all is seldom realised and the benefits from a conference as being a forum for exchange of views and sharing of experiences remain largely denied. As an aggregate consequence of not being well-led and well-fed, the discussions become, on occasions, desultory and not even germane to the issues under discussion. The minutes of the meetings, loosely drafted and not always free from ambiguity, are circulated very late which is unhelpful for keeping track of what was actually done in the meeting.¹⁷ Nor is there a systematic or vigorous follow-up of decisions taken by the body.

THE PROPOSAL FOR INTER-STATE COUNCIL

Consequent upon strained Centre-State relations since 1967, a demand has been made for establishment of an inter-State council charged with the responsibility of considering Centre-State issues. Kerala urged its formation soon after the fourth general election. Its establishment has also been recommended by the ARC Study

¹⁷It has even been alleged that some time the minutes do not with complete fidelity correspond with what actually transpires in the meeting.

Team on Centre-State Relations¹⁸ as well as by the Administrative Reforms Commission.¹⁹ On the other hand, the Central Ministry of Law argued, in the memorandum submitted to the Administrative Reforms Commission, that the Constitution of India did not visualise any machinery for regulation of Centre-State relations. It held the view that the language of Article 263 made it amply clear that such an inter-State council was mainly to look into disputes among the States themselves and to advise the Central cabinet on them, although some matters in which the Central Government and a few States might be interested—in the establishment of a steel plant, for instance—could be referred to the council for its consideration. In any event, in the opinion of this Ministry, Article 263 did not 'permit' the creation of a council to probe the gamut of Centre-State relations as such.

This fairly accurately reflects the attitude of the Central Government on the formation of such an inter-State council under Article 263. When faced with the demand for the formation of such a body the Central Government sought its postponement on the plea that it was waiting for the Administrative Reforms Commission's views on this proposal and that there were already several forums where the Centre-State issues could be discussed.²⁰ That this was only to cover up its lack of courage to reject openly this demand was apparent enough to the more discerning observers. The Central Government is resistant to the setting up of the proposed inter-State council lest its actions be discussed in this body where it may not have the last word. But it may be really difficult for it to succeed in indefinitely postponing the setting up of such a body in the face of mounting pressure in its favour. The only possible danger may lie in the swelling-up of Centre-State disputes and an easy propensity to take disputes direct to it instead of endeavouring to settle these through the normal processes

¹⁸*Report of the Study Team on Centre-State Relations*, New Delhi, Administrative Reforms Commission, September 1967, pp. 301-5.

¹⁹*Report on Centre-State Relationships*, New Delhi, Administrative Reforms Commission, 1969, pp. 32-5.

²⁰In reply to a parliamentary question V.C. Shukla, Minister of State in the Ministry of Home Affairs, observed: "The Chief Minister of Kerala has demanded the formation of an inter-State council under Article 263 of the Constitution to consider Centre-State issues. There are already several forums for Centre-State consultations, such as, the National Development Council, the Chief Ministers' Conference, the zonal councils and other numerous functional conferences and committees of ministries. The Study Team on Centre-State relations set up by the Administrative Reforms Commission has dealt with the question of setting up of any Inter-State Council. The report of the Study Team is at present under the consideration of the Administrative Reforms Commission and the Government are awaiting their recommendations." [*Rajya Sabha Debates*, Vol. 67 (LXVII) No. 28, March 26, 1969, cols. 5987-8]

of consultation. But this may happen to be a purely temporary phenomenon and experience would teach the States that the inter-State council is only the final court of appeal and issues should be taken to it only in the last resort.

The Administrative Reforms Commission recommended that this council should consist of the Prime Minister, the Finance Minister, the Home Minister, the leader of the opposition in Lok Sabha, five representatives, one each from the five zonal councils and such Central cabinet ministers or chief ministers as are concerned with a particular subject under discussion. "The inter-State council being a new body, its usefulness has to be judged by the experience of its working. We do not envisage at this stage a permanent inter-State council. The inter-State council, may, to begin with, be set up for a period of two years. A decision may be taken for its continuance in the light of the role it plays, its performance and achievements".²¹

VII

In addition to what has been said earlier, the following conclusions also seem to emerge from a study of the consultative machinery in the field of Centre-State relations:

1. All the three categories taken together, there appears to be a surfeit of consultative bodies in certain fields of Centre-State relations. To give an example, agriculture and matters allied to it are considered by: (i) the Conference of State Ministers of Agriculture, (ii) the conference of State Ministers of Community Development, (iii) the Conference of State Ministers of Cooperation, (iv) the Development Commissioners' Conference, and (v) the Conference of Agricultural Secretaries. In addition, the National Development Council, the Chief Ministers' Conference and the Conference of State Ministers of Irrigation and Power often meet to deliberate on agriculture. There is a case for rationalisation: even downright disbandment of some and merger of a few others.

2. Ministers' conferences, in particular, have become devalued consequent on a flux in the country's politics. This is indeed disheartening causing, as it does, a setback to democracy. As the Centre-State problems are political in the ultimate analysis, they ought to be resolved by the political leadership.

3. Almost all major areas of administration are deliberated upon by both the ministers' and the secretaries' conferences. In such cases an insistence on holding the secretaries' conference before the corresponding ministers' conference would be conducive to a more meaning-

²¹ *Report on Centre-State Relationship, op. cit.*, p. 34.

ful functioning of both. A proper scheduling of the conferences which appears to be completely neglected at present is overdue.

4. At present, the State ministers and civil servants spend too much of their time on visits to Delhi, thereby causing work to suffer—and pile up. This is a grave matter needing the personal attention of the chief minister himself.

5. Many dimensions of consultation have been added up because of lack of clarity of the policy itself or lack of, or deficiency in, comprehension of the policy. If sufficient thought were given at the stage of policy-formation itself, many subsequent exercises, in consultation would have become wholly redundant.

6. Consultation as developed in the field of Centre-State relations shows greater inter-play of economic forces than is commonly realised. Indeed, consultation is a political instrument keyed to a sharing of economic benefits by all concerned and in this game the familiar party labels tend to become indistinct and blurred.

7. Consultation presupposes a spirit of give and take, which is possible if both the Centre and the constituent States show a measure of flexibility in their mutual dealings without wandering away from the perspective. The Centre's attitude has remained marked by undue rigidity and, also, by a feeling of superiority. The States, too, have not always shown the requisite degree of responsibility in their utterances as well as in actions.

VIII

The Central Government should cultivate a high degree of sensitivity and anticipate repercussions including the human and sociological ones while engaged in the disposing of matters coming to it. Its approach towards consultation should be more tactical than merely technical. There are issues which, it is true, have no physical spill-over beyond its accredited sphere and yet should be decided only after intensive consultation with the States. Equally, there are matters in which the Centre is not administratively involved (except that of taking a decision) but which, nevertheless, shake the very core of a State; the Centre must, in such cases, arrange prior consultation before agreeing on a course of action. Both these statements need to be illustrated by the Centre's stand on questions of pay and allowances of its civil servants, and of transfer of Berubari to Pakistan.

Considerable embarrassment is at present caused to the States by the Central Government's practice of taking unilateral decision on the emoluments and dearness allowances of its civil service. It is true that some States have been, in practice, accepting, as for their own employees the Central Government's scale of dearness allowances. Other States,

however, may not like or agree to abdicate their individual judgment so completely on such matters. There is a strong case for an integrated approach to such and some other questions which impinge on the service conditions of public employees, which call for consultation between the Centre and the States.

The Berubari case was full of human pathos. Berubari was a place where persons ousted from Pakistan had been settled after partition. These displaced persons had not fully overcome the emotional shock of having been swept from their homes in East Bengal when they had again to be uprooted, as the Central Government had decided on the transfer of this territory to Pakistan. A prior consultation with West Bengal would have conveyed to the distant Centre the human and sociological implications of such a decision but unfortunately no such consultation was ever arranged by the Central Government. And this happened when B. C. Roy, known for his influence over Jawaharlal Nehru, was presiding over West Bengal's destiny. B. C. Roy observed in the State Legislative Assembly: "Sir, certain questions have been asked. One question that has been asked is whether at any stage the Government of West Bengal or myself was asked about the future of Berubari Union. I said it categorically before and I repeat again that at no point of time was the opinion taken of my revenue officer or of the Government or of myself."²²

The consultative machinery is of recent development in the system of Indian administration. It is unevenly developed. It mostly exists in the sphere covered under the State list of subjects. It has been hitherto invoked, broadly speaking, to make the Centre's decisions prevail over the States in the latter's field of jurisdiction rather than being completely 'open-ended', and has been of less than optimum effectiveness. This reflects absence of any significantly articulated desire on the part of the Central Government to sustain and invigorate the participative technique in administration to reinforce the Constitution, enrich its contents and broaden its base. The States, too, are to blame, though perhaps to a much less degree, for they have not always entered into consultation with the Centre free from mental reservations, often acquiescing in its decisions only to turn a deaf ear to them once back to the State capital. For one thing, consultation is apt to be more constructive if our political system develops a 'tenure system' under which the ministers at the Central level are, after a period, made to contest for the State legislatures and the State level ministers, in turn, seek election to the national Parliament. The ministers would then be enabled to acquire a first-hand knowledge of the aspirations, anxieties

²² *Assembly Proceedings*, West Bengal Legislative Assembly, Vol. XXVIII, No. 2, 29 November, 1960, col. 31.

and problems of both the levels of government in our federation.

As disposition towards consultation is largely influenced by cultural and sociological forces, it necessarily calls for special effort to develop an appropriate consultative technique in the realm of public administration. While the machinery for consultation may be built up more quickly, the consultative technique which is to fuel its engines may be slower in emergence. Yet, it is this which is vital to Centre-State harmony in the long run. In this connection one is apt to remember R. Bhaskaran, the great political scientist, who made the following singularly significant observation in as early as 1952: "In all important acts of State, legal as well as administrative considerations enter and if our objective is wise, equitable and stable government, then present tendency to canvass in public purely legalistic arguments should be moderated by due regard for the practical requirements of statesmanly administration. The field where the need is the greatest is in the field of the relations of the Centre and the States and here the administration can build up: (1) a highly centralised organisation accustomed to order and ensure obedience to orders, or (2) a clearing-house issuing advice and letting State Governments and the law taking their own course, or (3) a more statesmanly practice of delicate negotiation, conference and discussion by which political clashes and constitutional deadlocks may be averted without prejudice to any legitimate interest. The last is the best and requires most arduous labour from specially well-equipped personnel. I should consider that the most urgent problem in India today, even more urgent than the management of external affairs or economic planning."²³

The Central Government cannot expect to succeed for long by browbeating the States and by constantly invoking, directly or obliquely, Articles 256 and 257. It must carry the States with it, which is possible only through consultations.

Consultation is both a process and a means. As a process it offers considerable scope for improvement. It should seek greater and more meaningful involvement of members. It should become brisk and business-like. Above all, one should never overlook that consultation is a mean culminating in an action-programme. As it is a mere means it should be judiciously weighed; under-consultation is as deleterious as over-consultation. Indeed, under-consultation leading to a set of decisions is certainly to be preferred to a situation marked by over-consultation evaporating into nothingness. This needs to be emphasized, for loquacity is our common trait and our action-shyness, too, is known. It need also be stressed that consultation in certain areas and beyond a

²³Bhaskaran, R. "Reform of Public Administration in India" in B. B. Majumdar (Edited): *Problems of Public Administration in India*, Patna, Pustak Mahal, pp. 43-44.

measure is positively dysfunctional. To quote Appleby: "Excess cross-reference and consultation in the course of administration is not 'democratic administration'; it frustrates the democratic aspiration; it is an evasion of responsibility on the part of those who must have special responsibility. Democracy hinges first of all on the manner in which responsibility is fixed and held accountable; second on responsiveness and considerateness. There are techniques that enhance responsibility and accountability, that enrich responsiveness and considerateness; these are democratic techniques. There are methods that diffuse and conceal responsibility, that reduce accountability, that misinterpret responsiveness, that over-burden citizens and that convert considerateness into sticky sentimentality. These damage effectiveness and demean democracy".²⁴

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²⁴Appleby Paul, H., *op. cit.*, p. 68.

Inter-State Council : An Aspect of Cooperative Federation*

Sudesh Kumar Sharma

INDIAN FEDERALISM is historically a product of tradition as both under the ancient Indian empires and during the Mughal regime, the constituent units were enjoying a certain degree of autonomy. The founding fathers favoured a strong Centre because they felt that "having regard to the diverse nature of the population, the number of religions and sects which divided it and the fissiparous tendencies which it had on a number of occasions shown, on any emergency arising affecting either the country or the State by the breakdown of its constitutional machinery, the Central Government should have power to take over its administration."¹ It was, on pragmatic considerations, provided that only those powers, concerned with the regulation of local problems, should be vested in the States; the residue, especially those which tend to maintain the economic, industrial and commercial unity of the country was to be left to the Union.² While distributing powers, unconsciously the foundations of a cooperative federalism were being laid. This new spirit was to depend not so much on institutional devices but, "on the harmonious working of the federal power structure, in the stability and effectiveness of the Centre, in a just system of resolution of Centre-State and inter-State conflicts and in adequate institutional system for consultation, coordination, interchange and integration."³

*From *Indian Journal of Public Administration*, Vol. XXII, No. 3, 1976, pp. 539-48.

¹M.C. Setalvad, *Union and State Relations under the Indian Constitution*, Calcutta, Eastern Law House, 1974, p. 9.

²*State of West Bengal vs. Union of India*, 1864 (1), S.C.R. 371. They (the distribution) embody in the constitution "a principle of paramount importance that the economic unity of the country will provide the main sustaining force of the stability and progress of the political and cultural unity of the country." *Atiabari Team Co. vs. State of Assam*, 1961 (1) S.C.R. 809 at p. 844.

³Subhash C. Kashyap (ed.), *Union-State Relations in India*, New Delhi, Institute of Constitutional and Parliamentary Studies, 1969, p. 212.

The factors pressing for 'unity in diversity' have been dynamic leadership, the force of a common nationalism, the desire for an economic planning, historical inter-dependence, a common religion and basic culture of the majority community, strategic military considerations and, above all, "a desire and an ability to secure the component units against encroachment by the Central Government".⁴ Where many factors contributed to the formation of the federation, the forces for regional autonomy soon gathered momentum due to: (a) the internal diversities in caste, religion, economic status, class, language, etc.; (b) the belief that self-government can be achieved only if there is complete regional autonomy; (c) different regions within an area having cultural, political or economic ties with other areas outside the realm; (d) different ethnic and cultural groups trying to grow independently; and (e) the geographic dispersion. It was not surprising, therefore, that Central State harmony was disturbed and these malefic and pernicious tendencies even led to belligerent attitudes. Some potent sources of conflict between the Centre and the States have been:⁵ (a) tensions over issues like boundary disputes, river water disputes and disputes regarding inclusion of certain cities or projects in particular States; (b) dissatisfaction over the scheme of distribution of powers with certain specific obligations on the States in relation to the Centre, such as maintaining the means of communication; (c) competition for more and more share in civil services; (d) posting of Central reserve police in the States; (e) deployment of all-India services, and the role of the Governor; (f) the food zones and the acute shortage of food-grains; and (g) the setting up of the linguistic States, and the political reality as it exists and the extent to which it conforms to the constitutional intention.

The challenge before India was how to fight the fissiparous tendencies in the country and maintain its democratic structure. F. G. Carnell observed: "As the States reorganisation suggests, the Centre cannot always triumph. At the very time when the Planning Commission would have liked to reduce India to a unitary character with five enormous provinces, coinciding with 'nodal' economic regions served by river valley projects and other schemes, which completely cut across State boundaries, linguistic regionalism was powerful enough

⁴W.S. Livingstone, *Federalism and Constitutional Change*, Clarendon Press, Oxford, 1956, pp. 308-9. *Vide also* R.L. Watts, *New Federations: Experiments in the Commonwealth*, Oxford, 1966, p. 65. K.C. Wheare lists seven factors for such a Union, cf. *Federal Government*, London, O.U.P., 1963, pp. 37-40.

⁵Refer Asok Chanda, *Federalism in India*, London, George Allen and Unwin, 1965, *The Indian Express*, April 11, 1969, M.C. Setalvad, *Union and State Relations Under the Indian Constitution*, Eastern Law House, Calcutta, 1974. Also S.A.H. Haqqi (ed.), *Union State Relations in India*, Meerut, Meenakshi, 1967.

to insist on a State reorganisation which was purely tribal in its approach to social, economic and political problems.”⁶ Some of the States find themselves severely and unfairly handicapped in fulfilling their frustratingly limited constitutional, legal and financial powers.

As the Congress party was in power from 1950 to 1967, there were occasions when the States could not assert their individuality and the system worked more or less on a monolithic basis. The prominence of Nehru’s leadership, the Centrally directed planning superior skills and initiative exercised by Central leadership, the administrative services, the emergency powers and many similar factors fortified the Centre beyond expectations.⁷ The *Bhoodan* and *Gramdan* movements also could not succeed in driving the people emotionally away from the Central Government.⁸

LEGALISM AS AID TO FEDERALISM

Dicey regarded some sort of legalism as essential to federalism. Conflicts are but natural in a big society, and judicial intervention in one form or the other becomes a necessity. The Constitution provides a number of institutions to solve Centre-State conflicts and to promote cooperative federalism consistent with national integration. As far back as 1935, section 135 of the Government of India Act provided that “if at any time it appears to the Governor-General that the public interest would be served by the establishment of an Inter-Provincial Council charged with the duty of: (a) inquiring into and advising upon disputes which may have arisen between provinces, (b) investigating and discussing subjects in which some or all of the provinces, or the Dominion and one or more of the Provinces, have a common interest, or (c) making recommendations upon any such subject and, in particular, recommendations for the better coordination of policy and action with respect to that subject, it shall be lawful for the Governor-General to establish such a Council, and to define the nature of the duties to be performed by it and its organisation and procedure. An order establishing any such Council may make provision for representatives of Indian States to participate in the work of the Council.”

⁶Refer *The Politics of the New States*, London O.U.P., 1961 and *Federalism and Economic Growth in Under-developed Countries*, pp. 55-56. Vide also Norman D. Palmer, *The Indian Political System*, London, George Allen and Unwin, 1975.

⁷Myron Weiner (ed.), *State Politics in India*, Princeton University Press, 1968. p. 57. Also R.L. Walls, *op. cit.*, p. 20. K.M. Panikkar said, “The Centre has aggrandised itself and is assuming more and more powers at the expense of the States”, *The Foundations of New India*, London, Allen and Unwin, 1963, p. 236.

⁸B.B. Jena, “Contradictions of Equal Sovereignties in India”, *The Indian Journal of Political Science*, No. I, 1962. p. 71 cf. *Indian Journal of Public Administration*, Vol. I, No. 2, pp. 140-150 and *The Radical Humanist*, Vol. XXIII, December 6, 1959, p. 571.

In Australia, section 101 of the constitution lays down that "there shall be an inter-State commission with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of the constitution relating to trade and commerce, and of laws made thereunder".

The above provision has not been applied for the last fifty years, since the inter-State commission was not held to be a judicial tribunal⁹. In the USA, there is no provision for any institution to effect inter-State coordination, but the Congress created an 'Inter-State Commerce Commission' to control the charges of inter-State carriers to prevent preference or discrimination as between persons or localities, to prevent any device which aims at an unlawful interference with inter-State commerce and to hear and investigate complaints.¹⁰ Besides, there are two inter-State bodies, *i.e.*, (a) the National Conference of Commissioners for Union State Laws; and (b) the Council of the State Governments.

The problem of defining the administrative relations between the Union and the units unfortunately received little attention in the early drafts of the Indian Constitution as all the committees were preoccupied with working out the details of the basic features of the Constitution.¹¹ Even then the Inter-State Council was proposed in the first draft of the Constitution.¹² This proposal was, however, abandoned later.

After many vicissitudes, the idea of Inter-State Council triumphed and the Council was envisaged; under Article 263 which says: "If at any time it appears to the President that the public interest would be served by the establishment of a Council charged with the duty of: (a) inquiring into and advising upon disputes which may have arisen between States; (b) investigating and discussing subjects in which some or all the States, or the Union and one or more of the States, have a common interest; or (c) making recommendations upon any such subject, and, in particular, recommendations for the better coordination of policy and action with respect to the subject, it shall be lawful for the President by order to establish such a Council and to define the nature of the duties to be performed by it and its organisation and procedure. The provisions appear to be exhaustive and comprehensive but still the Constitution did not establish the Council; maybe, the founding fathers did not anticipate the future developments and the way they happened. Moreover, it was not envisaged that the Council would be called upon to play any executive role; its activities would mostly be confined to a

⁹N.S.W. vs. Commonwealth, 1915 (20).

¹⁰Inter-State Commerce Act, 1887.

¹¹B. Shiva Rao, *The Framing of India's Constitution: A Study*, New Delhi, IIPA, 1968, p. 641.

¹²Article 246 of the Draft Constitution of India.

mixture of cognitive, consultative, normative and advisory functions.

THE ZONAL COUNCILS

To bring about inter-State cooperation and coordination, five zonal councils were set up with regard to: (a) any matter of common interest in the field of economic and social planning; (b) any matter concerning border disputes, linguistic minorities or inter-State transport; (c) any matter connected with or arising out of the reorganisation of the States.¹³ Each Council developed its own nuances and differed from its counterparts both in details and positive achievements. A zonal council was to consist of: (a) a union minister to be nominated by the President,¹⁴ (b) the chief ministers of each of the States included in the zone and two other ministers of each State to be nominated by the governor; and (c) where any part-State was included in the zone, not more than two members from each such State to be nominated by the President.¹⁵ Two or more zonal councils could also hold joint meetings, meetings being held in the States included in each zone by rotation. The expenditure was to be borne by the Central Government out of the money provided by Parliament. Such councils did not grow powerful enough as the States did not show much keenness or sufficient articulate expression in their favour. Moreover such council came to be regarded as the proverbial fifth wheel, impeding speed and efficiency in administration.¹⁶ With the emergence of the multi-party political complexion, such councils ceased to be of much interest. Even at best, "the Zonal Council is but a modest institution from which it would be too much to expect more than modest results".¹⁷

Article 263 of the Indian Constitution leaves it to the President to define the organisation and procedure of the Inter-State Council so far as the purpose of coordinating the policy of the States is concerned. The National Development Council was established¹⁸ on the recom-

¹³*States Reorganisation Act, 1956, Section 21(2).* As a part of the reorganisation of States, 14 States and 4 Union Territories (leaving out the Islands) were grouped into five Zones: *Northern Zonal Council*: Punjab, Rajasthan, J & K, Union Territories of Delhi and Himachal Pradesh; *Central Zonal Council*: Uttar Pradesh and Madhya Pradesh; *Eastern Zonal Council*: Bihar, West Bengal, Orissa, Assam, Nagaland and the Union Territories of Manipur and Tripura; *Western Zonal Council*: Maharashtra and Gujarat; *Southern Zonal Council*: Andhra Pradesh, Tamil Nadu, Kerala, Mysore and the Union Territory of Pondicherry.

¹⁴Union Home Minister was nominated by the President as the Chairman of all the Zonal Councils.

¹⁵*Ibid.*, Section 16(1).

¹⁶S. R. Maheshwari, *Government Through Consultation: Advisory Committees in Indian Government*, New Delhi, IIPA, 1972, p. 312.

¹⁷A. Avasthi (ed.), *Aspects of Administration*, New Delhi, Allied, 1964, p. 126.

¹⁸9th August, 1952.

mendation of the Planning Commission "to review the working of the national plan from time to time, consider important questions of social and economic policy affecting national development and measures for achieving the aims and targets set out in the national plan". The President established the central council of health, the central council of local self-government and four regional councils for sales tax for the northern, eastern, western and southern zones in 1952, 1954 and 1968 respectively.¹⁹

There are pulls and counter-pulls in federal systems and to keep the centrifugal and centripetal forces in equilibrium some agency is urgently needed for: (a) securing national consensus in the matters regarding policies of all-India nature; (b) coordination of financial policies; (c) progressive legislative measures as regards concurrent jurisdiction; (d) uniform income policy to remove gross inequalities from State to State, e.g., dearness allowance; (e) reducing overlapping of functions; (f) acting as a forum for discussions; and (g) affording coordination for the follow-up action. There is a suggestion that the Rajya Sabha should be made so strong that it becomes an exact replica of the American Senate.²⁰

CENTRE-STATE CONSULTATION CHANNELS

The need for consultation cannot be under emphasised in a federal set-up. There are a number of conferences at higher levels where the ministers occasionally meet and discuss.²¹ Advisory committees are a modern innovation in public administration, their growth being in immediate and direct response to the progressive complexity and diversification of a modern society and also to help remove the friction among the federal constituents. The five hundred and odd advisory committees currently advising the machinery of public administration at the Central level are also performing a limited role.²² The main cause of their restricted effectiveness is that they are treated as merely peripheral to the federal system.

The Study Team of the Administrative Reforms Commission has also emphasised on the need of Inter-State Council. Its composition, according to it, should be: (a) the prime minister (chairman), (b) Union ministers for finance, home, labour, food and other subjects in the State and Concurrent lists, (c) chief ministers or their nominees,

¹⁹Refer SRO 1948 dated 9.8.1952 and SRO 2953 dated 6.9.1954 and G.S.R. 238, Gazette of India Extraordinary, Part II, Section 3, 1968.

²⁰Refer S. N. Jain *et al.* (ed.), *The Union and the States*, New Delhi, National, 1972.

²¹For details refer Ram K. Vepa, "Administrative Consultation—Formal and Informal", *Indian Journal of Public Administration*, Vol. XVI, No. 3 (July-September 1970), pp. 419-429.

²²S. R. Maheshwari, *op. cit.*, pp. 288-289.

and (d) a few others invited by the chairman or co-opted by the Council.²³ However, in the final report submitted to the prime minister on January 19, 1969, the Commission wanted the Inter-State Council to consist of the prime minister (chairman), the finance minister, the home minister, the leader of the opposition in the Lok Sabha, and a representative each from the five zonal councils. A question naturally arises: would such a Council enjoy the confidence and cooperation of the States? It obviously suffers from the following defects: (a) It will be a politically dominated body and might fail to inspire confidence; (b) it will have more bias towards the Centre, because of the presence of the union ministers and the prime minister; (c) it may fail to give a non-partisan outlook where the Centre is a party to the dispute; (d) it may fail to secure an impartial view because of the regional and factional loyalties of some of its members (the Mysore case in relation to its boundary dispute with Maharashtra may be cited as one illustration); and (e) other practical difficulties. For instance, if one person is holding both the portfolios of the prime minister and finance minister, would the Council lose one member? Again, since the term of the zonal councils is less, would their representatives retire from the Inter-State Council also with the expiry of their earlier tenures? Would the Council have a stable composition and image? And, would the Council be able to resolve the conflicts within the short term of two years?

Would it not be better if the Inter-State Council is made a stable and permanent body consisting of five members nominated by the Chief Justice of the Supreme Court who should also nominate the chairman of the Council? The Council may further have as many *ad hoc* members as there are parties to the dispute, nominated by the parties concerned, and with the right to vote. The decisions of such a Council should be final and binding on the parties. Some technical personnel may be co-opted at the discretion of the chairman to assist in its deliberations. There should be a separate secretariat of the Council and the parties to the dispute may be brought for a direct dialogue in the presence of impartial persons. The Council may not have any original jurisdiction and the aggrieved parties should not be approached unless the matter is discussed in the zonal councils. If the States of different zones are involved, the matter may first be discussed in the National Development Council, from the national point of view, and a political settlement may be feasible provided the Central Government prepares the ground, failing which the matter should be taken to the Inter-State Council. The proposed composition of the Council may be so modified as to include one from the judiciary, it may be a

retired judge.²⁴ Incidentally such a Council would have no representative of the services, therefore, the chairman or a member of Union Public Service Commission would be a useful addition. In short, membership should not be based on the power structure but on the brain trust of sagacity, experience and wisdom.

THE INTER-STATE COUNCIL'S FUNCTIONS

The Council is supposed to perform many functions. The important ones are: (a) to remove conflicts and controversies between the Centre and the States; (b) to enunciate and formulate broad guidelines for the appointment, functions and discretionary powers of important functionaries like governors; (c) to act as a forum of discussions; (d) to remove the fiscal imbalances; and (e) to check the growing dissatisfaction over financial allocations.²⁵ While the Administrative Reforms Commission has failed to prescribe definite functions, the Study Team (acting negatively) is keen to exclude certain functions from the ambit of the Council. Particularly, it has recommended that the Council should not interfere with: (1) inter-State disputes like border disputes, and (2) with the appointment of federal officers like the Governor, the Chief Justice of India, the Chief Election Commissioner, the Chairman, of the Union Public Service Commission, the Auditor General of India, etc. The former is on the ground that it may create considerable ill-feeling between contending States, and the latter may dilute cabinet responsibility and split the executive.²⁶

There appears to be no justification whatsoever in circumscribing the functions of the Inter-State Council, which has mainly to act as a fulcrum of harmony and homogeneity. In case the contending States want to refer even the boundary disputes to such a Council, there should be no bar. It may help the States to mobilise public opinion. Again, something good may come out by the mutual discussions, particularly if we view it in the context of Morris Jones' description of inter-State relationship as a 'bargaining federalism'.²⁷ The Council can perform a useful function to: (a) investigate and discuss subjects of common interest, (b) recommend broad lines of policy for mutual benefit, (c) make proposals for inter-State or boundary legislation, and (d) discover the areas where greater cooperation can be achieved and

²⁴L.M. Singhvi wants the Vice-President to be the Chairman of the Council. *Cooperative Federalism: A Case for the Establishment of an Inter-State Council*, Subhash C. Kashyap (ed.), *op. cit.*, p. 218.

²⁵A. K. Ghosal, "Need for a New Look at Centre-State Relations in India after 1957", *The Indian Journal of Political Science*, Vol. XXX, No. 4, p. 374.

²⁶*Ibid.*, pp. 303-304.

²⁷Also refer A. Krishnaswami, *The Indian Union and the States*, Oxford, Pergamon, 1966, Ch. V.

better coordination affected. The Council can provide background data and hold inquiries which may be helpful to discover common ground for securing reconciliation of conflicting claims. These studies can influence policy-making and serve the needs and exigencies of federal fair play, equilibrium and integration.

The functions of the Council being purely advisory, there are many limitations. The law ministry has always taken the plea that the President is only a constitutional head under the Indian Constitution and hence there is no question of his being advised by any other agency except the cabinet.²⁸ The objection, however, is not tenable particularly when the proposed Inter-State Council is to work under the chairmanship of the prime minister. His presence there would be a great safeguard against any decision of the Inter-State Council which might undermine the position of the Cabinet. When the Planning Commission and the National Development Council can exist without diluting the Cabinet responsibility or authority, why not the Inter-State Council? Moreover, the President was not intended by the Constitution makers to be a silent spectator in the sphere of Centre-State relations.²⁹ He has to act as a moderator and regulator so that the relations remain true to the spirit of the Constitution. He cannot remain 'a passive on-looker' but has to be 'an active participant' only then he can be a real guardian of the Constitution.³⁰

Has the President of India the power to secure compliance in case he wants to implement the recommendations of the Council? It appears that the guidelines as contemplated by the Administrative Reforms Commission would be a sort of the Instrument of Instructions. It may be pointed out that the idea regarding the issue of such instructions did not find favour with the Constituent Assembly.

The only argument advanced was that the Council should limit its scope to inquiry and determination of the facts of a dispute which may lead to amicable settlement or conciliation. If it fails, the parties may take the dispute to the Supreme Court. Asok Chanda also regards such a Council as basically an "investigating committee without power to adjudicate".³¹ The experience of the working of Indian federal system shows that when the States are adamant and recalcitrant, it is difficult to satisfy them and setting of Inter-State Council may not serve much purpose. Therefore it becomes sometimes necessary to invoke the formal machinery for "the settlement of these disputes

²⁸Refer S.L. Shakhder (ed.), *The Constitution and the Parliament in India*, New Delhi, 1976, Part III.

²⁹*Ibid.*

³⁰*Ibid.*

³¹Asok Chanda, *op. cit.*, p. 109.

and Article 131 affords a means for adjudication of such disputes".³²

The answer to such objections can be met by having a look at the functioning of the Finance Commission and the Planning Commission. It was widely believed that the Planning Commission was an oversized and obstructionist body which froze State initiative and bred frustration in matters of economic development.³³ There is always a need for flexible balancing devices for effecting federal finance adjustments because there is a chronic gap between the own resources and expenditure potential of the States.³⁴ The Finance Commission's set-up to recommend the basis for grants-in-aid and sharing of taxes also failed to evolve any satisfactory formula of financial allocations and make recommendations taking into account the flexibility in inter-State allocation of divisible pools.³⁵ Are the recommendations of such commissions mandatory? Today planning is based largely on methods of consultation and cooperation rather than on pressure and dictation.³⁶ Planning has now come to stay as a joint responsibility and the State Governments actively participate in the planning process.³⁷ The Inter-State Council, if established, shall also make its presence felt in the constitutional set-up of this country. At a high level seminar at Simla, there was a general agreement on the need for the establishment of an Inter-State Council with advisory functions³⁸ to coalesce regional interests and approaches to national strategy.³⁹

The Council should have its own appropriate secretariat. The Administrative Reforms Commission would like it to be located in the Cabinet Secretariat,⁴⁰ but till such time as it does not have a permanent headquarters of its own, it would be better if it is allowed to work under the guidance of the Ministry of Home Affairs. It may be helpful in : (a) the preparation and coordination of agenda notes and the timely circulation of papers to the members of the Council, (b)

³²R.S. Gae, "Administrative Relations Between the Union and the States", in S.N. Jain, *et al* (ed.), *The Union and the States*, New Delhi, National, 1973, p. 319.

³³Gunnar Myrdal, *Asian Drama*, London, Lane, 1968, Vol. II, p. 1840.

³⁴D.K. Lakdawala, "The Four Finance Commissions in India", *The Indian Economic Journal*, Vol. XIII, No. 4, 1961, p. 498.

³⁵G.Ramchandran, "Union-State Relations in Finance and Planning", *Indian Journal of Public Administration*, Vol. XII, No. 3, p. 380. *Vide also*, A. H. Birch, *Federalism, Finance and Social Legislation in Canada, Australia and United States*, Oxford, Clarendon Press, 1955, p. 129.

³⁶W.H. Morris-Jones, *Parliament in India*, London, Longman, 1957, p. 10.

³⁷Arthur W. Macmohan, *Delegation and Autonomy*, Bombay, Asia, 1961, p. 70.

³⁸In this connection the recommendations made by the Finance Commission as contemplated by Article 281 may be noted by way of contrast.

³⁹Statement issued by the Seminar on Union-State Relations in India, May 18-31, 1969, at the Indian Institute of Advanced Study, Simla.

⁴⁰Report of the Study Team Vol. 1, p. 314.

getting latest statistics about the States if it wants, and (c) taking follow-up action where necessary. The Council should be manned by an efficient staff recruited by the Union Public Service Commission. The Administrative Reforms Commission has recommended that the cost of setting up and running the council should be borne by the Central government; but if there is some contribution of the States, may be small, would ensure greater participation and a sense of involvement.

To conclude, there are many vistas, explored, and unexplored, where the Centre can profitably end its meddling in the State activity without in any way curtailing its rights. The Centre has to quit the role of creditor and patron and assume the role of a willing helper. The setting up of an Inter-State Council may prove helpful in stemming political antipathies and resolving them on a national plane. After the declaration of emergency it has become more necessary than ever before that a new type of relationship between the Centre and the States be evolved; a relationship of cooperative federalism, in which every sign of initiative and self-expression in the States is not regarded as a threat to national integration, but as a prelude to traditions of responsibility and cooperation.



Governor's Role in Administration*

Vishnu Sahay

IN 1951, in the course of casual conversation, I asked Pandit Govind Ballabh Pant, then chief minister of Uttar Pradesh, what he thought the governor's role was. The reason why I happened to ask that question was that there had been some talk going on at the time about how frustrated and neglected the governor of U.P. was feeling. The latest instance of this neglect, it was said, was that one evening it was only when he switched on the radio for news that the governor discovered that he had just appointed a new minister. The appointment of a minister was one of the few functions which were expressly recognised as part of the governor's responsibility, even though it had to be done on the advice of the chief minister. The governor of the day was Shri Homi Mody, a distinguished industrialist from Bombay, with a reputation for ability and patriotism but without political influence. Pantji had all India status in the congress hierarchy and in U.P. itself, he was then at the peak of his authority and prestige. There were some snipers, it is true, but on the whole his leadership over the party was at that time undisputed. The incident of announcing a ministerial appointment without even informing the governor was due to an inadvertent failure of routine, and Pantji, the most circumspect of men, did not refer to it in his reply to my question. He said—his words have struck in my memory—"The Governor may, if he likes, send down a note, but he should not afterwards enquire about it."

Pantji had great respect for form and I am not sure that he was wholly serious in his reply. But it did reflect the contemporary realities of power. The governor was an appointee, he usually came from outside the State of which he was the constitutional head, he did not have a relevant base of political strength on his own and was largely dependent for his influence with the ministry on what it thought his relations were with the prime minister and, to a lesser extent, with

*From *Indian Journal of Public Administration*, Vol. XVI, No. 3, 1970, pp. 277-286.

the aid giving ministries and organisations at the Centre. Congress chief ministers were usually at the head of powerful and obedient majorities—this was before the era of Aye Rams and Gaye Rams—and in the midst of their own complex problems of party management, of reconciliation of sectional interests, of obtaining resources for the clamant demands of economic development, many of them tended to be impatient if a governor read the Constitution too literally. One did, and tried to act as ombudsman. His zeal resulted in his being transferred to another post of high responsibility. The incident roused little public comment. This was soon after independence and though there was no clear definition of what a governor was expected to do when people came to him with complaints and asked for redress, it was widely recognised that the action taken was inevitable.

Notwithstanding his inheritance of Government House, complete with guard of honour and red-tabbed ADC, the Rajyapal was obviously not a continuation of the departed Lat Sahib. It was not for him to act as a court of appeal against the action of a popular ministry. When the Constitution came into effect, the position was put on a legal basis. The governor was bound to act (with some exceptions) on the advice of the ministry. He did not have direct executive power though all action purported to be in his name. But there had to be some one to choose the chief minister and some one formally to appoint the rest of the ministry on the advice of the chief minister. The governor personified the State in functions such as summoning the legislature, proroguing it, adjourning it, opening it. In addition, there was a theory, following the Westminster model, that he had the right 'to be informed, to advise and to warn'. Since ours was a semi-federal Constitution, he was also considered to be the representative of the President meaning thereby the Government of India. The Constitution makers had deliberately made him an appointee of the President rather than an elected official. Though there was a term of five years prescribed for him, he held office only at the President's pleasure. In those early years, no one raised the question as to where his responsibilities to the Government of India ended *vis-a-vis* his constitutional obligations as Head of the State and there was an easy assumption that no dichotomy could arise.

In the ordinary course of duty, he was expected to keep the Central Government 'informed' and to help in keeping Central wishes and State action in line. The President required him to write fortnightly reports, extracts from which were, on receipt, circulated to the Central ministries concerned as a matter of routine. A copy was also usually sent to the chief minister. There was little appreciation that these reports from the governor reflected a special constitutional obligation to the President and if they were to express frank views on matters of

political importance, copies should not have been sent to the chief minister as a matter of course. Much labour and assiduity was devoted to these fortnightly letters, but in normal times they were usually repetitions of the State Government's official fortnightly letters to the Central home ministry, padded with a summary of what the governor had said at various prize givings and a list of the dignitaries he had entertained in Raj Bhawan. At least one President, known for his love of good literature, did not read them. Nor did the prime minister; it was left to his secretariat to point out whether there was any special paragraph needing his perusal. Those were politically quiet times and the governor as a source of information was of not much practical importance. The Centre had many sources for getting information on the political situation in the States. Those days the political situation mainly meant the situation of the Congress party. The chief ministers themselves, in easy and familiar contact with the leaders of their party at the Centre, were an adequate source and if there was any inadequacy in their reporting, there never was a lack of kind friends and followers taking the road to Delhi and filling the gap.

As for 'advising and warning' of which Bagehot wrote in describing the role of the Constitutional Head in Britain, the chief minister was usually a trusted party stalwart carrying the kudos of years of sacrifice and leadership in the national struggle; and if he needed being 'advised or warned', the most practical course of action for the Central leadership was obviously that on a party basis. The existence of a great national party in power both at the Centre and in the States and the presence of a great charismatic leader towering over the whole political scene have been factors which shaped and limited the governor's role for nearly twenty years till, in 1967, the situation changed dramatically.

It is not suggested that throughout this period, governors performed only a ceremonial role all the time. The position varied from State to State. In the Punjab with its tremendous post-partition troubles, Shri C.M. Trivedi presided over his cabinet for quite some time almost exactly as if it had been 1946 rather than 1948. The Congress party there did not at the time have any very outstanding leader, the governor was an administrator of great experience and energy and the State government was heavily dependent on the Centre for all kinds of aid. Also at that time there was much to be done in connection with affairs in which Pakistan was involved. In the circumstances, the ministry was not unhappy to receive, and accept, guidance from a governor who could effectively take up its cause with the official machinery at Delhi. In Assam, Shri Akbar Hydari's work in integrating the Hill States and in getting the famous Nine-Point Agree-

ment of Union signed by the representatives of the Nagas is still remembered. In Lucknow, the hospitable and gracious Shrimati Sarojini Naidu did much to comfort the Muslim community, at that time in a state of trauma after the migration of most of its leaders to Pakistan. A few years later her daughter, with equal grace and success organised help and relief for the afflicted in West Bengal. In Orissa, Dr. A. N. Khosla, a distinguished engineer in his own right, worked full time on preparing detailed plans for the development of the hydro-electric resources of the State. Another governor was called upon to mediate when the armed police of two neighbouring states faced each other in a boundary dispute. On occasions of 'communal' difficulties, the usual course for the Centre was to fly in some Central leader or leaders supposed to have influence with the affected communities, but sometimes the the governor also was required to act as an unobtrusive mediator. Two such occasions arose in my own experience. Others must have had similar experiences.

The first was in the winter of 1960 when I was appointed acting governor of Assam in a short vacancy caused by the illness of the permanent incumbent. The Assamese of the Brahmaputra valley wanted Assamese to be the official language of the State. The considerable Bengali and Tribal minorities were opposed to this and controversy had led to serious 'language riots'. The Assembly had passed a Bill which made Assamese the official language and it was awaiting the governor's formal approval. The Constitution gave the governor the right, at his discretion, to reserve a Bill for approval by the President. When I left for Shillong, the home minister, Pandit Govind Ballabh Pant, whom I have quoted earlier, asked me to see what I could do to bring about a settlement. He explained that assent to the Bill was the only 'handle' I had. This was different from "the Governor may if he likes send down a note but he should not afterwards enquire about it". Circumstances had changed. On arrival I went round the Valley making the usual speeches about unity and Gandhian ideals and contacting leaders of the various groups who mattered. In the end, I found that there was no possibility of a compromise till time had brought a cooling-off of tempers, and after keeping the controversial Bill on my table for a few weeks, I had no choice but to approve it. The incident was an example of the part the governor could sometimes play in buying time. It showed also the limitations of his role.

The second time I was called upon to take a hand in solving a political dispute was in 1963. The Khasis and Garos had been agitating for a few years for separation from Assam. Assam was, however, not the only State with separatist regions and the Centre was worried about the dominoes effect of the tribal demand. Prime Minister

Nehru had put forward as a solution 'the Scottish pattern' of devolution as it came to be called. This was not acceptable to the Hill leaders, who took a deputation to him when he was passing through the Gauhati airport. Panditji tried to explain to the deputationists that his proposals contained the essentials of effective devolution but he had to leave for Delhi and could not have a long session with them. He left saying that they should discuss the matter further with the governor. This was done but I cannot say that the discussion carried the matter any further. In matters of high political importance, when there are groups or communities emotionally worked up over conflicting claims, the governor can assess, report or explain but for negotiations of substance, people will not be content with any one much less than the fountain head of power.

These were isolated instances. In ordinary times the governor's activities were mainly non-political. There was no set pattern. Much depended on the predilections of the individual governor and of the chief minister and on their mutual relations. Most governors devoted a good deal of energy to organising and encouraging social work, raising funds for worthy causes and generally to provide community leadership. Broom in hand, Shri V. V. Giri, when governor, gave a personal lead to a keep-your-city-clean campaign in Bangalore. If the chief minister was not available, the governor could always be called upon to say a few graceful words at the inauguration of a cultural show or a convention of industrialists or a conference of meteorologists or sanskritists. Quite a few worked hard on schemes for the welfare of ex-servicemen. State Soldiers' Boards were as a rule starved of funds but whenever the country had to fight, as in 1962 and 1965, resources and concessions for ex-soldiers became easier to obtain and there was scope for useful work to be done for this deserving class. Governors were required to deal personally with mercy petitions addressed to them. They were also officially involved in appointments to the high court. The State Chief Justice initiated the recommendations, the chief minister was then consulted and the governor then sent them up with his own comments after making such efforts at coordination as were feasible.

Many governors were much involved with universities of which they were *ex-officio* chancellors. There was some controversy as to whether as chancellor, the governor had to act on advice or on his own. One set of lawyers argued that since under the scheme of the Constitution, the governor always acted on advice (except in specified cases), as chancellor too he was bound to act likewise. It was, however, by an Act of the State legislature that the governor was chancellor and other lawyers took a different view. In the early years after the passing of the Constitution, this controversy caused discom-

fort to governors in some States where the chief minister of the day was particularly conscious of his power. In most States, however, the autonomy of the University, with the governor-chancellor an integral part of its governance, was accepted and respected. Law apart, there was often practical advantage in letting the university authorities bear the first brunt of intrigue, scandal or student unruliness. The chief minister or education minister could then appear later on the scene as *deus ex-machina* and acquire due credit for the inevitable 'concessions'.

In many states there were some outlying areas which, in spite of attractive travelling allowance rates and free jeeps, did not figure in official tour programmes except at election time. Many governors made a point of visiting them. These visits were of distinct value when the inhabitants of these areas were tribes or other groups which felt isolated from the mainstream of national life. The routine on these occasions was something like that of pre-1947. There would be an address of welcome and a list of local demands. These would mainly be for more schools, roads, bridges, public buses, ferries, forest rights and the like, and though subsequent action on these requests followed its normal leisurely routine in the State secretariat, there occasionally was some important grievance which the governor could help to solve by personal approach to the minister concerned. Such visits served to bring the presence of the Sarkar to a neglected area and, in the later part of the period under review at any rate, they were not unpopular with the ministers, particularly if the governor in his speeches was tactful enough to make an appropriate reference to the beneficent ministers who would remedy the grievances.

In times of calamity, the governor was expected to pay a visit of sympathy to the afflicted area. In case of floods, an aerial survey was customary. It was an expensive and perhaps not very effective way of showing sympathy or overseeing relief. In times of riots or insurgency, when it became necessary to call on the defence services, the governor could sometimes help with his contacts with the Army or the Air Force. For some unaccountable reason, perhaps because the governor was supposed to represent the Centre to whom belonged these forces, perhaps because of old habit, Major Generals and Air Marshals tended to feel more at ease when dealing with the governor than with the ministry. Perhaps they thought their reluctance to get involved, in police duties, and, once involved, their desire for freedom of action as regards the mode of use of force would be better understood by the governor than by a minister harried with political pressure from supporters and opponents.

In times of emergency when the country had to fight, questions of constitutional rights and responsibilities were tacitly dropped and

it became a case of all hands to the pump. Executive responsibility was willingly shared with the governor. The governor, if he was wise, recognised that this should be only a temporary phase and he should not use the occasion to build up his own public image at the expense of the chief minister. Ultimately the responsibility would have to be carried by the chief minister; it was he who would have to face attacks from the people for the unavoidable untoward incidents and administrative failures; it was he who would have to carry with him the critics in his own party. For the building up of proper relationship between the roles of the ministers and the governor, it was necessary that the distinction should be borne in mind even when the governor did in fact, in special circumstances, take a hand in executive action.

The above is a rough sketch illustrating the governor's role during this period but no mention has been made so far of his informal work with the ministry. The Rules of Business adopted by the State governments at the instance of the Centre usually laid down that he was to be kept informed of the agenda for cabinet meetings, of its recorded proceedings, of proposed legislation, and of important communications from and to the Central government. Certain high appointments required his formal approval. Few governors have wished to provoke public controversy and information is, therefore, not available about what they did by way of informal private talks. The public impression naturally was that they acted only as rubber stamps. Perhaps in some States and with some chief ministers, they had no alternative, but from what I have heard, there were occasions towards the later part of this period when governors did intervene informally and with some success, specially if the proposal needing reconsideration was one in which a reluctant chief minister was being dragooned into acquiescence by a rival clique in his own party. On such occasions, a little support from the governor was not unwelcome.

The governor's intervention also sometimes helped to soften conflict between the State ministry and a Central minister bent on action unpalatable to the State. Indeed, as Central planning became more and more pervasive, a growing feature of the governor's reference to the Centre was pleading for more Central aid for his State. The demand was sometimes made on behalf of a specific project on which the people of the State had set their heart, like a new railway, an important bridge or a refinery. Sometimes the pleas were for increased aid for the State plan as a whole. Advocacy of the first kind helped but wholesale advocacy for more and more money on account of 'special circumstances' tended to get lost in the midst of 'special circumstances' equally strongly pleaded by every one else. There was a governor, known for his eloquence, who used to come to the

governors' conference armed with a massive brief from his government and liked to cover the whole State Plan in full and complete detail. He was able to do so on his first appearance but on the second occasion, the President, with an obvious twinkle in his eye, postponed calling upon him to speak till it was only fifteen minutes to lunch-time and pangs of hunger provided a painless guillotine.

The normal role of the governor was largely concerned with working with a ministry but there were interludes in some states when, under President's rule, he had to exercise direct executive power. There was little ambiguity about his role in that situation. He was bound by the instructions of the President, meaning thereby the Government of India, but the responsibility for everyday administration was his. He was usually assisted by one or two advisers from the ranks of professional administrators and though the sheer volume of work required that he should delegate a great deal, there was no question as to where final authority at the State level lay. Recently, however, the prime minister, answering critics of the Governor of Bengal, is reported to have said something to this effect—"it does not matter who the governor is, policy is laid down by the Government of India and there is a Council of Advisers". Policy is certainly to be laid down by the Government of India but the implications of the rest of the argument are so novel that I hesitate to believe that they correctly reflect the prime minister's views.

After the elections of 1967, governors were presented with conundrums of a new kind. When no party had a clear majority, whom was he to invite first to undertake the formation of the ministry? The leader of the largest party or the leader of some motley group of parties and independents, who claimed to have a majority? Was he to count heads in a parade at Raj Bhawan or should he use his judgment and let the numbers be tested on the floor of the legislature? What action was appropriate when an existing chief minister's claim to majority support was challenged and he dodged it by advising proroguing or adjournment so that during the interval he could create more ministers? The Constitution set a limit of six months for the interval between two sessions of the legislature. Was the chief minister to be allowed the full six months for avoiding meeting the challenge or must he be asked to have his supporters counted at a moment's notice when every one knew that most parties carried a considerable floating population? The British Parliament on which we had modelled our system of parliamentary government provided precedents for meeting

such situation*

Before 1967, there had been only one case in which the governor had to exercise discretion in appointing a chief minister. This was in Madras in 1952. The Congress party had failed to get a clear majority. The governor nominated a former governor-general of India, the distinguished Rajaji, to the Upper House—he belonged to the Congress party then—and gave him the mandate to form a ministry. Rajaji succeeded in doing so. My recollection is that at the time the governor's initiative was much admired. It did in fact lead to a stable ministry, but it is unlikely that the governor's discretion exercised in that way would receive much support today. The most conscientious of governors now will have to live down the taint of being an appointee of the Central government. There would be loud assurances, of course, that he had been left free to use his discretion but if his decision appeared to be one favouring the ruling party, there would be inevitably doubts as to whether there had been some telephoning between Delhi and the State capital. Incidentally in favour of Shri Sri Prakasa, it may be said that the contemporary evidence was that he acted on his own, the telephone line to Delhi being out of order. In the circumstances of the day, however, no one would have thought it odd if he had been able in fact to obtain guidance from Pandit Jawaharlal Nehru. Circumstances have changed greatly since then.

I do not propose in the compass of this article to attempt a discussion of the answers which have been suggested to these problems of choice. There is an excellent exposition to be found in a recent paper entitled 'Role and Position of Governors' by Shri K. Hanumanthaiya, formerly Chairman of the Administrative Reforms Commission which itself has made some useful recommendations on this topic. One of the recommendations, however, is that there should be formal guidelines to prescribe the manner in which the governor should exercise his discretion. There is a little danger in this proposal.

*Constitutional problems similar to ours did arise in the UK in connection with the Dominions just before the passing of the Statute of Westminster when the UK ministry ceased to have a say in the matter at all. These were concerned with the demand of the ministry that the governor was absolutely bound to accept its recommendations for nominations to the Upper House (New South Wales 1926), with the existing Chief Ministers' right to demand a dissolution, even if the Head of the State thought an alternative ministry was possible, with the demand that the Head should consult the Centre, *i.e.*, the UK Government (Canada 1925) and the like. The line taken by the UK Government was that the Governor or Governor-General was bound to act in his individual judgment alone and should not even consult the Dominions Secretary in these matters. In these questions his primary responsibility was to the people of the State of which he was the Head, (See Leopold Amery's autobiography, 'My Political Life', Vol. II, p. 378 *et seq.*).

However carefully worked out these guidelines were, they could not cover all the possible nuances of the situation that may develop—we are not a people lacking in ingenuity in these matters—and a formal rigid set of instructions would lead to legalistic disputation on what is essentially a matter of judgment and good conscience. A less formal formulation of broad guidelines would be undoubtedly useful.

The governor's role is changing. Attention is at present concentrated on his role in ministry-choosing and the like. But there will always be a time when he will be able to help as a moderating influence in Centre-State relationships, as a rallying point for communities, as a symbol of the continuity of the state, or as a standby in an emergency. He does wear two hats and dilemmas will arise in practice. These will be best solved if he acts, and appears to act, as a creature of the Constitution to which he has sworn fealty.



Centre-State Relations in Planning*

H. K. Paranjape†

ONE ADVANTAGE of having a number of States working together in federation in a country like India is that the total territory which is included within common customs boundaries, and having a common currency, etc., is extensive enough to provide a large market so that the benefits of the economies of large scale production and division of labour are easily available. At the same time, especially when it is a federation of people living over a large geographical area, with population running into crores, and having considerable diversity in potential resources, economic and social organisation and the level of economic progress already achieved, there are bound to be a number of difficulties in the way of evolving an economic policy which would be of equal benefit to the various parts of the country. This creates difficult Centre-State and inter-State problems in any federation. They become specially acute where, as a result of the adoption of economic planning, the State assumes considerable responsibility for the development and operation of the economy. Centre-State relations then assume some additional dimensions.

Many special problems then arise, an important one being: How can the country formulate a national development plan which tries to obtain the maximum advantage from having a large area under one government but which, at the same time, is sufficiently firmly rooted in the diverse regions and areas of the country, taking note of both their potentialities and the needs and aspirations of the people belonging to them. In other words, just like the problem of reconciling economic growth with reduction in inequalities among different classes of citizens, there is also the problem of ensuring a rapid rate of economic

*From *Indian Journal of Public Administration*, Vol. XVI, No. 1, 1970, pp. 47-83.

†In the formulation of an early draft of this paper, my colleague Dr. S.K. Goyal played a significant part. He could not, however, participate in the final formulation. Shri P. J. Vernekar rendered valuable assistance in the preparation of the paper.

growth and at the same time preventing an accentuation of inequalities among different regions and States. How does one formulate a plan and ensure its proper implementation in such a way that it remains a national Plan and at the same time integrates various State plans together so that they are consistent with and complementary to each other? Further, how is this to be achieved in a democratic system under which different parties may be in power at the Centre and in various States? How does one make sure of the necessary continuity in development plans when not only might there be different parties in power at the Centre and in the States at the same time, but the complexion of governments at various levels is liable to change over a period of time? Another concrete question that arises is: With the shortage of resources that is bound to face development planners, how are the resources to be distributed between the Centre and the States, and among the States, so as to satisfy their development requirements?

We attempt in this paper a brief review of the organisation and functioning of development planning in India, with a view to bringing out how some of these problems affecting Union-State Relations in planning have been tackled in the past and indicating the major problems that continue and the possible solutions to them.

CONSTITUTIONAL AND ORGANISATIONAL SETTING

One of the principal objectives of a federal Constitution is to reconcile the claim of national 'sovereignty' with the 'sovereignty' of the constituent States. This is sought to be achieved in the Indian Constitution mainly through the division of powers and functions. Social and economic planning is included in the Concurrent list. Most of the subjects with which planning is concerned, however, fall either in the Union or in the State list. Among the important subjects falling in the Union list are: large industry, railways, national highways, civil aviation, major ports, shipping, communications, banking, insurance, overall monetary and credit policy, foreign loans and inter-State and foreign trade. The principal sources of revenue allotted to the Centre include taxes on income other than agricultural income, corporation tax, excise and customs. The subjects appearing in the State list include agriculture, forests, fisheries, irrigation, roads and road transport, minor ports, medium and small industry and social services, like education and health. The principal sources of revenue allotted to the States include land revenue, agricultural income tax, stamps and registration duties, and taxes on commodities, especially the sales tax. Power is a Concurrent subject. So are price control and trade and commerce in the production, supply and distribution of food stuffs, edible oils, raw cotton and raw jute.

The Constitution authorises the Union to regulate and control

certain subjects in the State list, such as roads, inland waterways and mines, if found expedient in public interest. The Union further has the power to coordinate and lay down standards in specified spheres like higher education and research.

There are important provisions under which the Centre can exercise a dominating influence over States. These include Article 249 under which parliament can legislate on any matter included in the State list provided the Rajya Sabha agrees to this by a two-thirds majority. Under Articles 200 and 201, the governor of a State, who is a nominee of the President, can reserve a bill (except a money bill) passed by the State legislature for the President's consideration and the latter may refuse to give his consent without assigning any reasons. Under Article 262, the parliament is competent to provide for adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.

The Constitution provides for the establishment of a quinquennial Finance Commission to distribute between the Union and the States the proceeds of taxes which fall in the divisible pool, to determine the principles which should govern the grants-in-aid to the States out of the Consolidated Fund of India and advise on any other matter referred to the Commission by the President in the interest of sound finance (Articles 270, 272, 275 and 280). In practice, the functions of the Finance Commission have been restricted to ascertaining and covering the revenue gaps of the States. Plan assistance (explained later) has been kept outside the purview of the successive finance commissions. Such assistance to States has been provided under Article 282, a miscellaneous financial provision, under which the Union or a State may make grants for any public purpose. The States are authorised to raise internal loans, except that if any Central loan to a State is outstanding, prior permission of the Union Government is necessary before floating a new loan (Article 293). This, in the financial circumstances prevailing in India, means in practice that the Centre's approval is necessary for the loan programmes of all States.

The Constitution (Article 263) also provides for the setting up of an inter-State Council for the purpose of ensuring coordination among the States. There is also an Article (360) which empowers the President to take certain special steps in a situation where the financial stability of India or a part thereof is threatened.

Traditions of Centralisation

Apart from these various Constitutional provisions which in this as in many other fields make the Union Government a very dominant partner, traditions regarding governmental and administrative organisation that have been inherited as a result of 100 years of British rule

accentuate the centralising tendency. In the not too distant past, provincial governments were merely subordinate agencies of the Centre and the influence of that tradition lingers on though it is steadily getting attenuated. The dominance by the all-India services of many important administrative agencies, and the presence of many of the most senior officers of these services at the Centre provide a further support to the tradition of accepting the Central Government's guidance and advice. Between 1947 and 1966, when for most of the period the Congress party was in power all over the country, these centralising tendencies were somewhat strengthened because the Central Cabinet usually consisted of the more senior and influential political leaders of the Congress party as compared to those in power in the States during the period.

The Planning Commission

Though the subject of social and economic planning figures in the Concurrent list, the Government of India decided in 1950 to set up the Planning Commission merely by an executive order and in that sense made it a body subservient to the Union Government. That powers, functions as well as the procedures of the Planning Commission have evolved since 1950 as a result of working conventions, especially regarding the relationship between the Planning Commission and the States; the Commission has no statutory authority over them.

When the Commission was first appointed, the resolution setting it up indicated that in framing its recommendations, the Commission would act "in close understanding and consultation with the ministries of the Central Government and the governments of States. The responsibility for taking and implementing decisions will rest with the Central and State Governments".¹ The Resolution expressed the hope that the States would give the fullest measure of help to the Commission so as to ensure maximum coordination in policy and unity in effort.

This position of the Planning Commission, as a non-statutory body essentially responsible in terms of law to the Union Government, has continued unchanged. At the same time, there is no doubt that the Commission has been able to build up a reputation of having a distinct personality of its own and to play a genuinely national role and the States have usually accepted this.

National Development Council

It was at the suggestion of the Planning Commission itself that

¹Government of India Resolution (Cabinet Secretariat), No. 1-P (C)/50, dated March 15, 1950.

the National Development Council (NDC) was constituted in August, 1952 to serve as the highest reviewing and advisory body in the field of planning.² The NDC was expected not only to promote common economic policies in vital spheres and ensure balanced and rapid development of all parts of the country but also to review the working of the national plans from time to time and recommend measures for the achievement of the aims and targets set out in them. The council's membership included the prime minister, the chief ministers of all the States and the members of the Planning Commission. Other Union and State ministers were invited to attend the Council's meetings when considered necessary. Over the years a practice developed according to which most of the Union Cabinet ministers as well as some of the ministers in the States, especially the finance ministers, were invited almost invariably to attend NDC meetings. The Council also occasionally formed sub-committees to go into questions requiring special attention.

The NDC was thus clearly conceived as a federal body, though non-statutory in character, to give the States a greater sense of participation in formulation of national plans and in bringing about a national consensus regarding plan policies. The Council used to meet frequently at the time of formulating five year plans, while it did not meet very much in other years.

After the recommendation of the Administrative Reforms Commission (ARC) in 1967, the government reconstituted the NDC to include as members all Union Cabinet ministers—in addition to the prime minister, the chief ministers of the States, and the members of the Planning Commission. Its functions have also been redefined—the most important change is that the NDC is now definitely charged with the responsibility of laying down guidelines for the formulation of the National Plan.³

Another instrument created by the Planning Commission for the purpose of developing close liaison with the States was the institution of programme advisers. The Programme Advisers were expected to function as 'the eyes and ears' of the Planning Commission *vis-a-vis* the States falling in their jurisdiction. Three senior officers were appointed in 1952 to these positions. The idea was that they would be persons sufficiently knowledgeable about the problems, prospects and actual developments in States and, therefore, be in a good position to advise the commission on the State Governments' proposals and, at the same time, to help the States in their planning

²Government of India Resolution (Cabinet Secretariat), No. 62/CF/50, of August, 1952.

³Government of India Resolution (Cabinet Secretariat), No. 65/15/CF-67, dated October 7, 1967.

effort. While the persons appointed to these posts have been very senior officers, mostly belonging to the ICS or the IAS, there has been considerable turnover among them and few advisers have been in the same position for any length of time. Twenty-one officers have occupied this position from 1952 up-to-date; not one of those in position today has continuously worked in that capacity⁴ even for a year.

Planning Machinery at the State Level

To start with, few States had specific whole-time agencies for planning. In course of time, most of the States came to establish special departments in charge of planning. At present, all except four States have such departments. While most States have small plan evaluation organisations, bureaux of economics and statistics, and sections dealing with manpower, the State Planning Machinery remains, in most cases, at a somewhat rudimentary level.

The Planning Commission has from time to time impressed on the States the importance of developing an effective State planning organisation through establishing State Planning Boards. This, however, has not found favour with most States. The ARC also recommended the creation of State Planning Boards⁵, more or less on the pattern of the Planning Commission—a recommendation supported by the Planning Commission. Except in one State, however, no Planning Board of the type envisaged by the ARC has been set up. The States also are apparently not convinced of the necessity of having any elaborate planning set-up.⁶

PLANNING PROCESS

Formulation of Plans

The process of plan formulation—and the pattern of Union-State Relations relating to it—have been evolving since 1950. Without going into the whole history of the evolution of the planning process, the principal features of the process as it worked during this period might be indicated. After formulating the overall macro framework for the national plan and broadly indicating the quantitative magnitudes as well as major policies involved in the adoption of this framework, the Planning Commission attempts to indicate to each State, both financial magnitudes of the outlay for the State plans and guide-

⁴For a detailed analysis of the working of the Institution of Programme Advisers, see H. K. Paranjape, *Planning Commission: A Descriptive Account*, New Delhi, Indian Institute of Public Administration, 1964, pp. 41-46.

⁵Administrative Reforms Commission, *Interim Report on the Machinery for Planning*, Delhi, Manager of Publications, Government of India, 1968, p. 19.

⁶See *Report of Workshop on Planning at the State Level*, New Delhi, IIPA, May 19-21, 1968.

lines regarding the formulation of the sectoral proposals. The States then formulate their plan proposals and send them to the Planning Commission. The difficulty has been that the suggested financial magnitudes are exceeded by most of the States in their plan proposals (*see* Table 1). Similar has been usually the case regarding the plan proposals prepared by various departments as well as districts in States. In many cases, the plan outlays proposed by different departments and districts put together add up to an outlay which is much in excess of the plan ceiling suggested by the Planning Commission for the State.

The NDC is consulted by the Planning Commission at various stages of plan formulation. The initial macro-economic framework as well as policy proposals are placed before the Council, discussed and its general approval obtained. However, the Planning Commission has not been able to obtain any clear guidelines or firm commitments from the Council. The discussions in the Council, while approving of the goals in general terms, have not led to commitments in terms of acceptance of the discipline required by way of policies, regulations or mobilisation of additional resources. It is also not unusual to find that State representatives on the Council use the platform of the NDC mainly to air the grievances of their own States. Chief ministers of States are by and large content to point out the importance of providing more Central assistance to the States and permitting the States to undertake more schemes; usually they are also vaguely in favour of larger development outlays. At the same time, they are reluctant to make any clear commitments about their share in the proposed mobilisation of resources. The Central Government also has generally found it difficult in the early stages of the formulation of the five year plan to take decision regarding the magnitude of the financial mobilisation that the Centre would undertake. The tug-of-war between the Planning Commission and the Finance Ministry about the contemplated size of public sector outlay has many times continued almost till the beginning of the five year plan period, thus keeping the question of the size of public sector outlay undecided till a very late stage of plan formulation.

Many other factors also contribute to unrealistic plan formulation. The system of Central assistance that was gradually evolved, emphasised the distinction between 'plan expenditure' and 'non-plan expenditure'—the latter including what came to be known as 'committed' expenditure on development schemes which were already under implementation in the previous plan period. While Central assistance provided by the Planning Commission was expected to meet the States' deficit on account of plan expenditure, assistance provided on the basis of the award of the Finance Commission was expected to bridge the gap in the States' finances due to non-plan expenditure. The award of the Finance

TABLE 1 ERSTWHILE FOURTH FIVE YEAR PLAN (1966-71)—DRAFT
MEMORANDA OF STATES

(Rupees in Crores)

<i>Sl. No.</i>	<i>States</i>	<i>Ceiling indicated by the Planning Commission*</i>	<i>Outlays proposed by States</i>	<i>Col. 3 as % of Col. 2</i>
(1)	(2)	(3)	(4)	(5)
1.	Andhra Pradesh	610	784	128.5
2.	Assam	240	375	156.2
3.	Bihar	674	940	139.4
4.	Gujarat	470	470	100.0
5.	Kerala	340	442	130.0
6.	Madhya Pradesh	600	800	133.3
7.	Madras	582	750	128.8
8.	Maharashtra	780	1186	152.0
9.	Mysore	500	500	100.0
10.	Orissa	320	460	143.7
11.	Punjab	462	500	108.2
12.	Rajasthan	472	438	92.7
13.	Uttar Pradesh	996	1,405	141.0
14.	West Bengal	586	618	105.4
15.	Jammu & Kashmir	150	130	85.6
<i>Total</i>		7,782	9,798	125.9

*For the purpose of preparing memoranda on the Fourth Plan of States, Planning Commission had suggested that an outlay of about twice the outlay in the Third Plan should be regarded as the upper limit for the formulation of the States Plans for the Fourth Plan period. The figures in column 3 indicate that the ceiling in terms of the original Third Plan outlay for respective States.

SOURCE : Draft Memoranda of States on the Fourth Five Year Plan (1966-71).

Commission normally followed the finalisation of the Plan. In order to ensure that the Finance Commission should be more sympathetic in awarding assistance, each State thought it appropriate to show that it has to cover a large gap, the assumption being that the larger the gap the larger would be the assistance recommended. The attitude regarding plan assistance was somewhat less clear. On the one hand, it was assumed that the larger the gap between approved outlay for the plan and the expected financial resources that the State can mobilise, the larger would be the plan assistance. At the same time, the States were also aware that the Planning Commission frowned upon very large gaps and many times insisted on reducing plan outlay if the State's own resource mobilisation was expected to be inadequate. The assumption in this respect has, therefore, not been clear. In the past, State Governments found that having secured the Planning

Commission's approval for a large plan outlay, and having initiated a number of schemes and programmes on that basis, it was easier subsequently to bargain for larger plan assistance at the time of annual plan discussions. In any case, the result was that the States put forward estimates of plan outlay far in excess of what could be financed from their own resources, almost assuming that there was no limit to Central assistance.

Apart from regional pressures, sectoral pressures tended to inflate the size of State plans. In subjects like community development, education, health and social welfare, the concerned Central ministries suggested programmes and schemes to the States which tended to unduly inflate the proposed State outlays in these sectors.⁷ The fact that plan formulation in the case of the first three plans coincided with the general election was another factor leading the State Governments to include in the plan proposals a number of schemes which had not been properly formulated. All these factors contributed to inflating State plan proposals in financial terms and also to including in them projects and programmes which were not ready for implementation.

Plan Discussions

An elaborate system of discussions between the Planning Commission and the State Governments has evolved over the years. As mentioned above, the State proposals were usually far in excess of what was considered practicable and included schemes and programmes the details of which had not been worked out. The examination of these proposals, therefore, created considerable difficulty. Even though attempts were sometimes made to persuade the State Governments to modify their proposals at an early stage, such attempts mostly failed and all these issues remained open till the last stages of plan formulation. All the matters had then to be decided within a comparatively short period of time—two or three days. The sectoral working groups representing the ministries at the Centre and the departments in the States failed to bring about any significant streamlining or rationalisation of the State proposals. The task of reducing proposed outlays to some realistic levels was thus left largely to the Planning

⁷This observation is based on an analysis of the reports of the Working Groups and Programme Advisers. Prof. D.R. Gadgil makes a similar point in "Formulating the Fourth Plan", *Yojana*, New Delhi, February 23, 1969.

Commission.⁸ The programme adviser would formulate his proposals, with the informal understanding, if not approval, of the State finance and planning officers, and these were finally considered in a meeting between the Planning Commission and the State Government. Till recently, as no clear previous decisions were available about the magnitude of Central assistance, each State Government considered it appropriate to go on bargaining for maximum assistance right up to the last stage. The discussions tended to become lop-sided, too much emphasis being placed on needs and too little on resource availability, resource mobilisation, and scrutiny of programme proposals. The result of this process of decision-making regarding State Plans was that right till the beginning of the five year plan or sometimes even afterwards, it was not quite clear what the size of outlay would be for the State as a whole and, therefore, for each department and for individual schemes and programmes. Large scale cuts at the last minute or keeping certain matters pending, also led to considerable uncertainty. The result of including projects which had not been properly formulated was that actual implementation of these could not be taken up for some time; at the same time, funds were earmarked for them.

Annual Plans

Partly as a result of the failure in the formulation of five year plans in operational terms and partly because of the realisation that the necessary flexibility in development planning could only obtain through a system of annual plans, annual planning came to be emphasised from 1957-58. The hope that the annual plans would be formulated in a more realistic manner was, however, belied. Annual plan proposals suffered from defects similar to those mentioned above regarding the five year plans, though to a somewhat smaller degree (*see* Table 2). The process of discussion and the problems that had to be sorted out were also, therefore, essentially similar. The annual plan not being finalised till January or February, and large cuts being then made in the proposals put forward by the States and by various departments in a State, created many operational difficulties in the way of the smooth progress of development schemes and programmes.

The result of all these difficulties was that the plan expenditure was not phased appropriately and the results of plan outlays in physi-

⁸For instance, the Plan outlay suggested by a particular State at the time of the formulation of the Draft Outline of the Fourth Plan (August, 1966) was Rs. 300 crores, the one recommended by the Working Groups was Rs. 258 crores, that recommended by the Programme Adviser was Rs. 176 crores and that finally approved by the Commission was Rs. 190 crores. The corresponding figures for another State were Rs. 1,130 crores, Rs. 1,013 crores, Rs. 860 crores and Rs. 951 crores, respectively. Also see Table 2.

TABLE 2 ANNUAL PLAN, 1966-67 : OUTLAYS BY STATES

Sl. No.	States	(Rupees in Crores)						Col. 1 as % of Col. 4
		As intimated to the States (Plan Ceiling)	Proposed by States	Working Group recommendations	Programme Adviser's Recommendations	As agreed to after discussions		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
1.	Andhra Pradesh	81.70	99.86	92.06	79.25	79.25	79.3	
2.	Assam	28.10	34.25	28.63	23.45	26.45	77.2	
3.	Bihar	75.40	76.80	80.40	70.83+2.00	71.83	93.5	
4.	Gujarat	50.90	52.07	52.11	49.69	49.69	95.4	
5.	Jammu & Kashmir	16.20	20.03	19.11	18.80	19.04	95.0	
6.	Kerala	40.10	43.01	42.06	41.55	40.35	94.2	
7.	Madhya Pradesh	59.20	62.50	58.26	No recommendation	58.00	92.8	
8.	Madras	73.10	79.51	77.33	75.33	75.33	94.7	
9.	Maharashtra	115.80	134.77	126.55	120.34	120.34	89.2	
10.	Mysore	52.60	47.00	56.34	50.72	50.72	107.9	
11.	Orissa	48.20	54.20	52.58	45.77	45.77	84.4	
12.	Punjab	53.90	55.50	70.81	59.93	59.93	107.9	
13.	Rajasthan	42.00	42.75	46.45	37.96+2.00	37.96	88.7	
14.	Uttar Pradesh	131.30	161.12	155.63	137.95	133.95	83.1	
15.	West Bengal	41.50	76.47	67.47	57.54	57.54	75.2	
Total		930.00	1039.95+6.16 by Nagaland, i.e., 1046.11	1025.69	931.11*	926.35+5.11 for Nagaland, i.e., 931.46	89.0	

*On the assumption that Adviser's recommendations were the same as those finally agreed upon.
 Source: Programme Administration Division (Planning Commission) : File No. PC (P)2/65.

cal terms was much worse than anticipated. It was alleged in many quarters that an important reason for the distortion in the system of State Planning was the manner in which Central assistance for State Plans was organised.⁹

Plan Review, Evaluation and Control

Because of the considerable financial dependence of State Governments on the Centre for conducting plan programmes and implementing projects, it was necessary for the State Governments to get their schemes and projects approved by the Planning Commission as well as in some cases, by the concerned Central ministry. Progress reports on the schemes and projects so assisted were also submitted and these were used by the ministries as well as the Planning Commission for examining the assistance requirements for the next plan period—one year or five years. Unfortunately, except in the case of major projects, it has not been possible for the concerned authorities to keep track of the progress of the projects and programmes. Therefore, the progress of actual implementation was not adequately known for a review to be made so as to assist further planning. The evaluation organisations in the States were mostly inadequate for improving implementation and performance. The Programme Evaluation Organisation (PEO) of the Planning Commission has been more effective; but its work was largely confined to community development programmes and later, to rural development programmes. In these fields, however, the reports of the PEO did provide useful guidelines for helping the planning authorities to improve plan formulation as well as implementation. The studies conducted by the committee on plan projects were also useful, but they were conducted on an *ad hoc* basis and their coverage was limited.

One of the difficulties in reviewing, plan programmes has been that targets are usually not set in physical terms and there is no periodwise break-up of the physical programmes. The result has been that in many sectors the only figures on the basis of which implementation could be judged have been those relating to financial outlay.

The programme advisers were originally expected to be able to watch the progress of the most important projects and programmes. It has been found that they have not been able to do this effectively. The knowledge at the Centre about the progress of plan programmes

⁹Three Study Teams of the ARC, those on 'the Machinery for Planning', 'Financial Administration', and 'Centre-State Relationships', as well as the ARC, all reached a similar conclusion. See ARC, *Final Report of the Study Team of the Machinery for Planning*, paras 10.47 & 10.48; ARC, *Report of the Study Team on Financial Administration*, para 14.5; and ARC, *Report of the Study Team on Centre-State Relationships*, para 7.10 (Delhi, Manager of Publications, Government of India).

and projects except in a few fields like irrigation and power has thus remained inadequate.

MAIN POINTS OF DISPUTE

Development planning in India since 1950 has given rise to a number of controversies between the Centre and the States. Controversy was somewhat mute in the period before 1961 when development planning was still comparatively new and the States were politically and administratively much more under the influence of the Centre. The points of dispute began to be aired more openly from the time of the formulation of the Third Five Year Plan. They assumed even greater magnitude as a result of the political developments after 1964—the death of Jawaharlal Nehru, the economic difficulties of 1965 and 1966, the interruption in Planning, and the changing political situation, specially after the General Elections in 1967.

One of the major complaints of the States has been that of over-centralisation and Central domination in this as in many other fields of governmental activity. For long, one of the principal points of criticism was the allocation of Central plan assistance. It was pointed out that not only had the size of the plan outlay at the Centre been increasing more rapidly than that of all the States taken together, but the manner in which the States should undertake development efforts had also been attempted to be dictated by Central authorities. The advantage that the Centre enjoyed because of the more flexible financial resources allotted to it under the Constitution, and the increasing role of foreign assistance in India's development finance which further increased the funds at the disposal of the Centre, were said to be the factors responsible for Central domination. The result was alleged to be that the States, though responsible for some of the most crucial sectors of national life, such as agriculture, education and health, were starved of financial resources, while there was more than adequate finance available at the Centre even for less essential developments. Even in regard to subjects which were constitutionally the responsibility of the States, the Centre was in a position, through conditional financial assistance to impose its own policies and programmes on States, irrespective of the relevance or priority of the proposal to a particular State. The result was said to be that not only was the essence of the federal system as envisaged by the Constitution subverted but genuine development properly related to the specific resource potential and felt requirements of each State could also not take place.¹⁰ Imposition of a

¹⁰See ARC, *Report of the Study Team on Financial Administration*, *op. cit.*, paras 14.2 to 14.5, pp. 77-78. Also see paras 5.1, 5.2, 8.7 and 8.8 of the ARC, *Report of the Study Team on Centre-State Relationships*, *op. cit.*

superficial uniformity was in effect a waste of resources. Moreover, undertaking schemes and projects to which the State administration did not feel adequately committed resulted in the projects and programmes not being properly implemented. Instances are known when programmes were discontinued as soon as specific Central assistance for them ceased.

At the same time, it was pointed out that one of the possible advantages that should have arisen out of such centralisation, *viz.*, balanced development of the country as a whole had not been achieved. It was alleged that under the Plans, as in the case of individuals so also in the case of regions and States, the rich had grown richer and the poor, poorer. While not all States pitched their criticism so high, many of them felt that the imbalance in development in the pre-independence period had not been much corrected through Planning. Central projects not being evenly distributed, the ineffectiveness of industrial licensing for ensuring the location of industries in less industrialised regions and States, the concentration of financial assistance by Central financial institutions in favour of the already developed States, and the inadequate assistance provided by the Centre for the development of less developed States were all mentioned as important factors contributing to the continuance of such an imbalance.

As against this, the Central authorities complained that State planning and development efforts continued to remain at comparatively rudimentary levels.¹¹ It was felt that in spite of various suggestions made from the Centre, the States had failed to develop a proper machinery for effective development planning. There was also too much shortsightedness in the formulation of plans, too little understanding of the discipline that was necessary, and inadequate political courage and administrative competence to implement the necessary measures. More projects were taken up than could be financed, resulting in thinly spreading investment over a number of projects, and leading to long gestation periods and insufficient or delayed returns. It was said that the States had merely made the Centre a whipping boy for their own failures.

There is considerable truth in such criticisms made on both sides. With the allocation of financial resources being what it is, it is undoubtedly true that the Centre has all along been in a far better financial position. The result has been that not only in respect of subjects, under the jurisdiction of the Centre, but even in respect of subjects, for which the responsibility has to be borne by the States, funds are far more easily available at the Centre than in the States. While to some

¹¹For a detailed review of Planning in the States see ARC, *Final Report of the Study Team on the Machinery for Planning, op. cit.*, Chapter VII.

extent, financial devolution is effected on the award of the Finance Commission, an increasing part of financial assistance from the Centre flows to the States on the advice of the Planning Commission. This undoubtedly has given the Centre and the Planning Commission considerable leverage in respect of State plans and programmes. The Centre's influence on State planning is exemplified by the fact that the pattern of State plan outlays under successive five year plans increasingly came to be uniform.¹² Because of the system of schematic matching assistance, the States had been almost compelled to accept not only particular schemes but even details, such as patterns of staffing regarding the schemes suggested by Central ministries. It was not as if the ministries at the Centre have always had adequate and effective information about the situation in individual States so as to be in a superior position to work out what was good and suitable for their development. It was, therefore, rightly resented by the States that, because of financial strength, Central authorities have been in a position practically to dictate development plans and programmes to them. At the same time, it should be remembered that States which were politically stronger, such as West Bengal under Shri B. C. Roy, were able to insist on having their way in certain matters. Moreover, with the inadequate machinery at the Centre for evaluation of projects and programmes and keeping track of their progress, the uniformity that was insisted upon generally proved to be superficial. It had also not been possible for the Central leadership to take a firm attitude when the States failed to implement what they had agreed to at the time of the formulation of the Plans. The net effect of all this was the erosion of initiative as well as responsibility on the part of States in the sphere of development. This also helped to perpetuate a situation where development planning in the States remained at a rudimentary level, much of it not being based on proper examination of local resources and potentialities.

Another important factor which had a deleterious effect on State Planning was that, till recently, there was no clear set of principles on the basis of which Central assistance was distributed among States. This helped create a feeling among States that pitching their demands high, followed by hard political bargaining was a fruitful tactic for obtaining a larger share of Central assistance. At the same time, bad financial management—as instanced by large overdrafts from the Reserve Bank—being tolerated, may be with some feeble protests, created an impression that the Centre would not insist upon financial

¹²ARC, *Report of the Study Team on the Machinery for Planning*, *ibid*, para 7.11, p. 17. Also see para 14.5, p. 79 of ARC, *Report of the Study Team on Financial Administration*, *op. cit.*

discipline and that indiscipline would be tolerated.

It is also true that the State Governments had hardly made adequate efforts to strengthen their planning organisations. Only thus could long-term plans have been prepared based on a study of their own resources and potentials. While the strengthening of the planning organisation in States was specifically mentioned in the Third Plan document as a vital step,¹³ nothing effective was done either by the Centre or by the States to follow this up. The result was that planning in the States continued to be largely what it was at the beginning of planning—an *ad hoc* collection of schemes which were not necessarily well-integrated in terms of ensuring best results. The agitations that State Governments supported (if they did not always sponsor them) regarding location of particular industrial projects within their territory also arose at least partly because neither the Centre nor States had worked out long-term plans of development which would indicate the lines along which development would take place in different parts of the country. When a State did not know that its best potentials lay in particular types of development and that these would be taken up at a scheduled point of time, it was not surprising that an agitational approach of grabbing a part of anything that was happening appealed to the State leadership. The failure here was not that of the State Governments alone; the Centre had a major share in it. The failure to formulate long-term plans, industrywise and regionwise, was almost an invitation to the agitational approach.

In discussions about unbalanced regional development and specially the handicaps from which certain States suffer, attention came to be mainly concentrated on Central assistance and the location of public sector projects. The location of private sector projects as well as the financial assistance provided by Central financial institution for industry also received some attention. But the unequal distribution of bank credit among different regions and States hardly received any attention in the past. More recently, it has been pointed out that one of the major defects of the functioning of the banking system in India has been that its development has been very lop-sided.¹⁴ There is almost over-development of banking facilities in certain States and areas, while certain others are woefully neglected. This, combined with sectors like agriculture and small industry being neglected by banks and the inadequate development of alternative channels of credit, such as co-operatives resulted in making the development of these sectors and,

¹³Planning Commission, *Third Five Year Plan*, Delhi, Manager of Publications, Government of India, p. 289.

¹⁴*Report of the Study Team on Banking Institutions and Indian Economy—a Critical Review*. (Report submitted by a group of economists—Dr. S. K. Goyal, Convener—to Secretary, Congress party in Parliament), 1967.

therefore, of States and areas where large industries were not located, slow. This factor affected the rate of economic growth, not only in the country as a whole, but also specifically in certain areas and States. Unfortunately the planning authorities had not given enough attention to this problem in the past, beyond stating that cooperative credit must be developed to bridge such credit gaps.

The inadequacy of the planning organisations in the States and to some extent in the Centre were mainly responsible for these ills. The very inadequate and superficial consultation between the Centre and the States in the process of plan formulation had also something to do with this.¹⁵ While the NDC was established in the early years of the First Five Year Plan, it never developed a method of functioning under which there would be well-informed and full-scale consultation at professional and administrative as well as ultimately at the political levels so as to ensure that plan formulation proceeded in the States as well as at the Centre in step with each other. Because of the high political status of the membership of the NDC, it was not possible to have frequent meetings of that body. The result was that no real discussion of specific problems was possible and no clear guidelines worked out for the formulation of policies and plans.¹⁶ The fact that, unlike at the Centre, in most States no special expertise in planning was developed and maintained in position, also undoubtedly contributed to the lack of a proper and sustained dialogue at the professional level between the Centre and the States. The institution of Programme Advisers, though well conceived, in practice failed¹⁷ to provide an effective instrument for liaison between the Centre and the States.

SUGGESTIONS FOR REFORM

These various defects in the system of planning as it developed over the years, and especially the distortions and anomalies that crept in as a result of the scheme of Central plan assistance, came to be increasingly criticised in various quarters and most State governments were at the forefront of these critics. As early as 1964, the Planning Commission itself realised that the plethora of patterns of assistance and Centrally sponsored schemes were not serving the purpose for which they were initiated and that much simplification and liberalisation in this regard was necessary. Thus, as a part of the formulation of the

¹⁵ARC, *Final Report of the Study Team on the Machinery for Planning*, *op. cit.*, p. 11.

¹⁶ARC, *Interim Report on the Machinery for Planning*, Delhi, Manager of Publications, Government of India, para 39, p. 22. Also see paras 6.8 & 6.9 of the ARC, *Report of the Study Team on Centre-State Relationships*, *op. cit.*

¹⁷ARC, *Final Report of the Study Team on the Machinery for Planning*, *op. cit.*, paras 10.62 to 10.66, pp. 135-136.

erstwhile Fourth Five Year Plan, the Commission initiated a dialogue on this subject with the State Governments as well as the Central ministries. While this exercise was under way, some of the State chief ministers, during discussions in 1965 on the preliminary memoranda of the States' Fourth Five Year Plan, suggested that a set of principles should be evolved for the distribution of Central assistance among the States for the Fourth Five Year Plan. As it happened, when this matter came up before the NDC no agreement could be reached on the precise criteria that should be followed in the allocation of Central assistance. Therefore, the responsibility for this shifted back to the Planning Commission. As a result of the studies and discussions on the problems of Centrally aided and Centrally sponsored schemes and the patterns and procedures of Central assistance, a number of changes therein were brought about. The number of patterns was reduced and the remaining ones were made simpler. The revised patterns were generally related to the heads and sub-heads of development or groups of schemes, except in the case of a few schemes under education and health where the assistance was related to specific items. As a result of these continued efforts, the number of Centrally sponsored schemes which stood at 147 in the middle of 1966 came to be reduced to 90 by the middle of 1968. But the feeling continued among the States that the simplification and rationalisation introduced as a result of these deliberations had not gone far enough.

In the meantime, the Administrative Reforms Commission had been constituted and it was decided that the reorganisation of planning machinery and revision of planning procedures might be considered as a part of the overall scheme of governmental reorganisation to be proposed by the ARC.

This whole question of planning machinery and process, together with the question of Union-State relations in the field of planning, was gone into at some length by the ARC and its Study Teams on the Machinery for Planning, Financial Administration and Centre-State Relationships. As regards the respective jurisdiction of the Planning Commission, the Union Government and the States in the planning process, the Study Team on the Machinery for Planning was of the view that the Planning Commission should only be responsible for formulating the objectives, laying down priorities, indicating broad sectoral outlays, fixing the basic targets and approving the main programmes together with criteria of selection of projects and schemes. The Team was further of the view that detailed sectoral planning, including elaboration of targets and formulation of individual projects and schemes, their detailed examination, scrutiny and implementation should be the responsibility of the respective Central ministries, State Governments and other executive agencies. The Study Team further

recommended that, as a general rule, greater freedom of action than in the past should be permitted to the States in State subjects except in matters involving national priorities.¹⁸ This view was endorsed by the ARC.¹⁹ It will be observed that the prescription suggested by the ARC and its Study Team for delineating the respective roles of the Planning Commission, the States and other agencies in the planning process was mainly governed by the need to reconcile the conflicting claims of centralisation which the logic of overall planning imposes, with the necessity of allowing adequate autonomy and initiative to the constituent units of the Union, to enable them better to carry out development in keeping with their own potentials and requirements.

The recommendations of the ARC and its Study Team on the subject of Central assistance essentially followed the same logic. The Study Team recommended that the instrument of Central assistance should be used for the purpose of ensuring adequate mobilisation of resources by the States, influencing the size and priorities of State plans in such a manner that all the State plans taken together satisfied the priorities and targets in the national plan, and also for reducing inter-State disparities. The need for evolving objective criteria for the distribution of Central assistance was also emphasised. The Team suggested that Central assistance should be related to main heads of development in the plan and emphasised that there should be no attempt to relate assistance to sub-heads or individual programmes except in the case of a few schemes of national importance.²⁰

The ARC's Study Team on Financial Administration was of the view that the proportion of discretionary element in Central assistance should be considerably reduced and the united element increased. The Team recommended a shift from discretionary grants to semi-judicial allocations. To achieve this, it suggested that one and the same body should deal with both plan and non-plan assistance. It recommended for this purpose a permanent Finance Commission, with a Vice-chairman who would also be a member of the Planning Commission, the chairman and other members being appointed for a period of six months or so when the award was to be given.²¹ Another institutional innovation suggested by this Team was the creation of a National Development Bank for channelising long-term finance for

¹⁸ARC, *Final Report of the Study Team on the Machinery for Planning*, *ibid.*, para 2.11 (p. 23).

¹⁹ARC, *Final Report on the Machinery for Planning*, *op. cit.*, para 84 (pp. 34-35).

²⁰ARC, *Final Report of the Study Team on the Machinery for Planning*, *op. cit.*, paras 10.42 to 10.48 (pp. 130 to 133).

²¹ARC, *Report of the Study Team on Financial Administration*, *op. cit.*, paras 14.7, 15.3 to 15.8 (pp. 79 to 85).

large and identifiable projects.²²

The ARC's Study Team on Centre-State Relationships had also gone into this problem. The Team was in favour of giving the States block amounts as Central grants, and the freedom to use these amounts according to their discretion, except in the case of programmes of crucial importance. As regards the respective roles of the Planning Commission and the Finance Commission, the Team was of the view that the Planning Commission should deal with grants, both plan and non-plan, and the Finance Commission should be responsible only for the devolution of taxes and duties.²³ It may be recalled that the Second Finance Commission had also referred to the overlap of functions between the Planning Commission and the Finance Commission.²⁴ The Third Finance Commission had gone a step further and suggested that either the functions of the Finance Commission should be enlarged to embrace total financial assistance to States or the Planning Commission itself should be transformed into a Finance Commission at the appropriate time.^{25 26 27}

These Study Teams also suggested that the number of the Centrally sponsored schemes should be kept to the minimum; the Study Team on Centre-State Relations actually wanted the total abolition of Centrally sponsored schemes.

The ARC's own approach in recommending liberalisation of the scheme of Central assistance was broadly along the lines of the recommendations made by its Study Teams. It, however, recommended a penal clause when it suggested that if there was a shortfall in the implementation of the State Plan taken as a whole and, as a result, the Central assistance utilised by a State was found to be more than what was proportionate to the expenditure to be met by the State out of its own resources as initially settled, there should be a corresponding

²²ARC, *Report of the Study Team on Financial Administration*, op. cit., Chap. XVII.

²³ARC, *Report of the Study Team on Centre-State Relationships*, op. cit., paras 7.19, 2.32 and 2.33.

²⁴*Report of the Second Finance Commission* (1957), Delhi, Manager of Publications, Government of India, p. 13.

²⁵*Report of the Third Finance Commission* (1961), Delhi, Manager of Publications, Government of India, pp. 35-36.

²⁶On the other hand, the Fourth Finance Commission, though it was of the view that the Constitution did not preclude it from recommending Plan grants, chose not to do so as it thought that Plan requirements being specifically the function of the Planning Commission, there should be no division of responsibility in regard to any element of plan expenditure [*Report of the Fourth Finance Commission* (1965), p. 9].

²⁷The Fifth Finance Commission, unlike its predecessors, was specifically asked not to take into account Plan requirements of States while recommending grants under Article 275. In spite of the representations made before it, it was not prepared to do anything that would blur the division of functions between the Finance Commission and Planning Commission [*Report of the Fifth Finance Commission* (1969), p. 121].

reduction in further Central assistance.²⁸

As regards the respective roles of the Finance Commission and the Planning Commission, the ARC was of the view that there was no inherent conflict in the jurisdiction of the two bodies and, therefore, there was no need to amalgamate their grant-giving functions.²⁹ The ARC was also against the creation of a financial institution like the National Development Bank as suggested by the Financial Administration Study Team.³⁰

HAVE THE REFORMS SUCCEEDED?

Reforms Implemented—Not Adequately Effective

These suggestions relating to the planning procedures have been mostly accepted by the new Planning Commission. Various instructions issued by the Planning Commission in connection with the preparation of the States' Fourth Five Year Plan indicate that the Commission has urged the States to exercise considerable initiative in working out the lines of their development. The Commission has also made it clear that they need not go in for standardised schemes and should feel largely free to choose their own programmes albeit within the national priorities. The need for working out plan schemes with a high degree of specificity has been specially stressed so that those concerned with coordination and synchronisation would be able to scrutinise the techno-economic feasibility of projects.

The Commission has also decided that block grants of Central assistance would be made to the States. The freedom so granted to the States is only subject to two constraints. Firstly, with a view to ensuring that main Plan priorities are maintained, outlays under certain programmes and specified schemes are to be earmarked and will not be allowed to be diverted except with the prior approval of the Planning Commission. It appears that this provision would make sure that a State does not divert resources made available for a scheme in an advanced stage of implementation, on which ground some additional assistance may have been sanctioned to it, to other schemes thus slowing down the project's near completion. Secondly, to ensure that the States fulfil their part of the responsibility, the actual payment of Central assistance has been made dependent on the State's fully meeting the target of approved outlays. In case there is a shortfall in expenditure in relation to the approved outlay, Central assistance would be

²⁸ARC, *Final Report on the Machinery for Planning*, *op. cit.*, Recommendation 11 (4), p. 30.

²⁹ARC, *Ibid.*, paras 79 and 80, p. 31.

³⁰ARC, *Ibid.*, paras 81 and 82, pp. 31-33.

proportionately reduced.

The number of Centrally sponsored schemes has been further reduced from 90 to 52; the outlay on these schemes is not now (Fourth Plan—1969-74) expected to exceed one-sixth of the Central plan assistance to States. Specific criteria for the distribution of Central assistance among the States have been evolved as a result of the deliberations of a Committee of the NDC, specially constituted for the purpose. According to the agreed formula, 60 per cent of the Central Plan assistance to States during the Fourth Plan is to be allocated on the basis of population and 10 per cent each on the basis of : (i) per capita overall tax effort for three years in relation to per capita income; (ii) continuing major irrigation and power schemes; and (iii) special problems peculiar to individual States. The remaining 10 per cent is to be distributed among six States having a per capita income below the national average. Starting with 1969-70, 70 per cent of the Central assistance is being uniformly given in the form of loans and 30 per cent in the form of grants.

At the time of the discussions on the Fourth Plan, a firm idea of the amount of Central assistance to be made available to the States during the plan period was given to the States even when the size of the total public sector plan was yet to be decided. The distribution of Central assistance among the States was made in accordance with the above principles. With the scope for bargaining regarding Central assistance being thus virtually eliminated, and the States knowing in advance the amount of Central assistance, it was expected that the States would become more realistic in the formulation of their plan proposals. The Fifth Finance Commission was appointed earlier than required and was requested to submit an interim report by September 1968. It was thought that removing the uncertainty due to the prospective recommendations of the Finance Commission would help more realistic preparation of the State plan proposals.

Subsequent experience, however, does not suggest any substantial improvement in the process of plan formulation as a result of the various steps that have been undertaken. Available information suggests that the actual formulation of the State plan proposals continued largely in the old grooves. The recent innovations do not seem to have significantly contributed to more realism in the State plan proposals. The outlay approved in April, 1969, by the Planning Commission as practicable, on the basis of its own estimate of the State's proposals for resource mobilisation and Central assistance, as a proportion of the outlay proposed by the State itself, did not exceed 90 per cent in the case of any State, exceeded 80 per cent only for four States and 70 per cent for another five. There were seven States where the proportion was between 50 per cent to 70 per cent and one where it was

below 50 per cent. This suggests that these remedies have not proved very effective up till now. The States continue to ask for larger plan outlays without being prepared to observe the financial discipline necessary for the purpose. In November, 1968, when the Committee of the NDC met to consider the proposed resource mobilisation effort by the States, and when the NDC subsequently met in April, 1969, to discuss the draft of the Fourth Plan, the States almost unanimously voiced a demand for increased Central assistance on the plea that the resource mobilisation suggested by the Planning Commission for the States was not practicable. When the NDC met in March, 1970, finally to approve the modifications to the Draft Fourth Five Year Plan, most States' representatives again expressed the opinion that adequate attention was not being paid to their needs. This was despite the fact that as a result of the reappraisal of the resource position, as promised in April, 1969, the total States' plan outlay had been stepped up by Rs. 540 crores as compared to the draft plan. Some States continue to express themselves firmly against the limitation regarding State plan outlays suggested by the Planning Commission and approved by the NDC.

In respect of unrealistic planning and lack of will to accept the necessary discipline for larger development effort, one cannot discern any significant difference among the States governed by different political parties. It may be noted that of the two States governed by leftist United Fronts in 1969-70, neither one suggested an outlay which according to the Planning Commission was realistic—in both, the approved outlay was below 70 per cent of the proposed one. (see col. 8 of Table 3).^{*} The justification put forward by the State Governments in this respect was that, in their view, the Central share of overall plan outlay should be decreased and the States' share increased. They even suggested a drastic reduction in the size and activities, if not abolition, of Central ministries such as agriculture, which deal with subjects in the State list.³¹

Communication Gap Between the Centre and the States

It is important that the States feel assured that what is being suggested by Central authorities, and especially by the Planning Commission, is based on valid techno-economic considerations. It was observed in November, 1968, that the States were asked at an NDC meeting to accept certain outlay figures, including those for Central assistance for the States, without being told what the Central Government's own commitment regarding resource mobilisation or overall outlay for development

^{*}The approved outlays of States as indicated in the proposed final version of the Plan submitted to the NDC in April, 1970, are given in col. 9 of Table 3.

³¹These suggestions were made by some chief ministers at the time of the NDC meeting in April, 1969.

TABLE 3 FOURTH FIVE YEAR PLAN, 1969-74

Sl. No.	States	Outlays indicated by Plan-ning Com-mission	Outlays proposed by States	Col. 4 as % to Col. 3	Recom-mended by Working Groups	Recom-mended by Adviser (PA)	Outlays approved in the Draft Plan (April 1969)	Col. 8 as % to Col. 4	(Rupees in Crores)	
									Final outlays on the basis of resources	Col. 10 as % to Col. 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.	Andhra Pradesh	522.00	660.64	127	651.17	360.00	360.55	54.5	420.50	64
2.	Assam	190.00	394.81	208	260.28	225.53	225.50	57.1	261.75	66
3.	Bihar	545.00	493.74	91	597.60	441.00	441.61	89.4	531.28	108
4.	Gujarat	446.00	565.90	126	562.58	390.00	450.22	79.5	455.00	80
5.	Haryana	168.40	262.00	155	293.59	190.00	190.49	72.7	225.00	86
6.	Jammu & Kashmir	126.00	225.46	179	184.36	145.00	145.00	64.3	158.40	70
7.	Kerala	293.00	466.75	159	400.21	257.37	258.40	55.3	258.35	55
8.	Madhya Pradesh	458.00	552.80	121	554.34	355.00	355.96	64.3	383.00	69
9.	Maharashtra	951.00	1000.22	105	1030.88	810.97	811.80	81.2	898.12	90
10.	Mysore	421.00	440.00	106	446.15	355.00	327.10	74.3	350.00	80
11.	Nagaland	30.00	58.66	196	42.88	34.00	35.00	59.6	40.00	68
12.	Orissa	300.00	321.49	107	303.22	179.16	180.50	56.1	222.60	69
13.	Punjab	280.00	325.00	116	401.28	250.00	271.40	83.5	293.56	90
14.	Rajasthan	313.00	313.00	100	349.73	236.70	238.96	76.3	302.00	96
15.	Tamil Nadu	564.32	623.68	111	604.82	501.00	502.00	80.5	519.36	83
16.	Uttar Pradesh	926.00	1350.00	146	1235.80	950.00	951.00	70.4	965.00	71
17.	West Bengal	492.51	654.74	133	639.41	324.00	320.51	48.9	322.50	49
Total		7,026.23*	8,708.89	124	8,558.31	6,004.73	6,066.00	69.6	6,606.42	76

*The State Governments were requested not to exceed the outlays which had emerged in old Fourth Plan (1966-70).
SOURCE : Programme Administration Division, Planning Commission.

was. The States did not appreciate this. The distribution of total outlay among different sectors, and that of public sector outlay between the Centre and the States, are matters of vital interest and importance to the States and they cannot easily be persuaded to accept the Planning Commission's recommendations unless the total logic behind these is explained to them. The attempt to involve the States through the NDC in the process of plan formulation from an early stage requires that proper organisation and procedures for consultation at professional and administrative levels must be developed. Unless this is done, in the political situation as it is evolving, it would be too much to expect that the States would agree to what may be thought to be an *obiter dictum* of the Planning Commission. That even in April, 1969 the Planning Commission could not secure from the NDC a unanimous approval of the draft Fourth Five Year Plan was an indication of how difficult the task is. The attempt is not made any easier by vacillations and lack of clarity at the Centre.

The nature of the debate in the National Development Council in March, 1970, at the time of finally approving the Fourth Five Year Plan, re-emphasises the conclusion that without a much more radical improvement in the whole nature of planning and plan discussions, the differences between the Centre and the States in plan formulation can only be superficially 'papered over', not genuinely resolved. While the plan was approved by a general consensus, various State Governments expressed their reservation about different aspects of the plan proposals. While all States were unanimously demanding that there should be more Central assistance to the States, each State also felt that it was not being fairly treated as compared to others. Considerable controversy developed as a result of the proposal put forward by the Planning Commission for special assistance outside the plan to nine States which were expected to have large deficits on non-plan account. The States which were not benefiting from this scheme felt that they were being made to suffer for having managed their finances better and that this scheme was kind of bonus to improvident States. Fears were also expressed in some circles that the provision would be used for giving discretionary assistance to States, and that this would be provided on political grounds.

There is no doubt that this proposal to some extent negated the earlier decision that Central plan assistance would be distributed on the basis of specified principles. But the difficulty seems to have been that in spite of the Finance Commission's award, which was expected to meet the non-plan deficit of States, it was observed that certain States would continue to suffer from large non-plan deficits during the Fourth Plan period. It was feared that unless something was done about this problem, with some non-plan demands having almost a

prior charge on the finances of the States, their plan outlays would to that extent suffer and thus adversely affect the overall scheme of national development under the Fourth Plan. Hitherto, States faced by such difficulties have resorted to unauthorised overdrafts from the Reserve Bank which the Centre has been almost compelled to make up through *ad hoc* loans. The approach suggested by the Centre in March, 1970, was that it would be much better to take an advance view of such difficulties and provide special loan assistance to help such States tide over them instead of either permitting an erosion in the minimum development outlay required to be undertaken by them or going to their assistance after they have overdrawn from the Reserve Bank. It is felt that the newly suggested scheme would enable the Planning Commission to have a greater influence over the financial management by these States and this might make for better financial discipline.

The vociferous opposition by a number of States to this proposal was a good indication of the communication gap between the Centre and the States in such vital matters affecting development planning. It appears that, as a result of the explanation provided on behalf of the Centre, the criticism was mollified and the plan proposals of the Planning Commission, including the scheme of special assistance, were broadly approved. The lesson from what happened is, however, clear. First, there must be a much better organised and continuous dialogue between the Centre and the States; and second, such a dialogue can be useful and effective only if the nature of the Planning Machinery in the Centre as well as in the States is improved.

It also needs to be realised, even more than in the earlier years of planning, that the political impact of plan proposals would have considerable influence on the attitude adopted by the State Governments to them. State Governments are increasingly subject to political pressures for amelioration of the conditions of various sections of the people and their very survival depends upon their being able to show that the development plans formulated and implemented by them are such that some impact on the acute problems facing the State would be visible within a short period of time. This is not always reconcilable with the long-term requirements of growth either of the particular State or of the country as a whole. It is, however, essential that the plan proposals suggested and supported by the Planning Commission should be such as would marry the long-term requirements of growth with the short-term requirements that the State Governments cannot but be interested in. It is true that the Planning Commission's new approach does not come in the way of any State making a bold attempt at a much greater development effort if it has the ingenuity, competence and courage to mobilise the resources necessary for such an effort.

Such a negative approach may, however, not be enough. It may be necessary for the Planning Commission to put forward specific alternatives for the States to attempt and even suggest to the Centre that some incentive for the States to follow the alternative which requires greater resource mobilisation or gives larger weightage to long-term growth, might be provided. Unless the Planning Commission acts in this manner as a 'lobby' for growth—if it merely continues to make 'realistic' estimates for what the States are likely to do—the present drift under which the States do not undertake to do what they are expected to do and only go on demanding more and more Central assistance is likely to continue.

Unbalanced Development

The other main point of criticism, as noted earlier, has been regarding unbalanced development among different States and regions arising out of an uneven distribution of industrial projects both in the public and the private sectors. As a result of the efforts of the two Study Teams appointed by the Planning Commission on the recommendation of the NDC, certain steps for ameliorating the backwardness of some of the more backward States and regions have been agreed upon.³²

One of the Study Teams had specifically suggested that special assistance should be provided for the development of industries in the backward States which had been named on the basis of certain criteria. The group did not dispute that there were backward areas in the so-called more developed States also. The country as a whole is backward. But the idea was that the somewhat better off States could provide assistance for the development of their own backward areas. Central assistance for this purpose should be confined to the backward States because it could then be somewhat larger in magnitude and thus could make some clearcut impact in a short time. However, in the NDC sub-committee, a compromise had to be reached under which backward as well as other States would obtain a share in this special assistance for industrial development of backward areas—the backward States obtaining more assistance than the others. It has also been agreed that other kinds of assistance like special terms for credit from the financial institutions should be available to the backward areas in all States.

Apparently, the State Governments find it useful to support demands for the location of large projects—public sector or private

³²See : (i) Planning Commission, *Report of the Working Group on Identification of Backward Areas*, and (ii) Planning Commission, *Report of the Working Group on Fiscal and Financial Incentives for Starting Industries in Backward Areas*, Delhi, Manager of Publications, Government of India.

sector—in their own territories in spite of the well-observed phenomenon that the economic growth of different States has not been much related to the location of large projects in them. Punjab which has shown probably the best development among all the States has few major industries located there. The creation of the necessary infrastructure, provision of technical assistance and credit facilities, development of proper technical training and the building up of a climate where enterprise and entrepreneurship thrive, are known to contribute far more even to industrial development than the location of a few prestige projects. However, it is much easier either to put pressure on the Central Government to locate a major project in the State or to support public agitation about it. Many State Governments have fallen prey to such temptations. Moreover, where large projects have already been located, few State Governments have been able to plan the development of complementary and ancillary industries so as to take advantage of the large projects. Unfortunately, the approach has sometimes been to treat the project as a milch-cow, pressurising the management not only for the employment of local personnel even at higher professional and technical levels but also supporting demands for excessive employment. Such short-cuts have only worked to the detriment of the genuine economic growth of the States as well as of the country as a whole. As already mentioned above, such shortsighted approaches are, however, inescapable as long as no genuine long-term plans for development are prepared for the different States.

Constitutional Amendment

A suggestion is frequently made that the Constitution be amended to provide a better balance of financial powers between the Centre and the States. Many protagonists of State autonomy feel that the inadequate tax powers allotted to the States and the very narrow base of statutory devolution of revenues need a substantial modification. It has also been suggested that grants under Article 282 have become predominant even though these are non-statutory and entirely within the discretion of the Centre. This is objected to as making the States overdependent on the Centre.

As against this, it has been pointed out that the States have not effectively been able to utilise all the tax powers allotted to them—agricultural income tax being the most prominent example. Even in sources like the sales tax, as well as various levies on land, States have found it difficult to adopt rates of taxation significantly higher than those adopted by their neighbours. The Centre has been frequently urged to provide a lead in coordinating the tax policies of groups of States and to some extent this has been attempted. The replacement of the sales tax by excise duties whose proceeds are distributed among States has in

the case of a few critical commodities been found to be very useful from the point of view of uniformity as well as revenue collection. It has even been suggested that if no distinction had been made in the Constitution for tax purpose between income from agriculture and that from other sources, the present anomalies in income taxation and the hesitation felt in imposing taxation on agricultural incomes would not have existed. The reluctance of most State Governments either to undertake taxation of agricultural incomes or to raise it to levels comparable to those imposed on non-agricultural incomes, the tendency to abolish land revenue even though its incidence has become nominal in the case of even the poorest farmers, and the reported reluctance of some State Governments even to assist the Centre in collecting the levy on agricultural wealth, all point to the difficulty that the State Governments experience in resorting to taxation which would hurt significant sections of their voters. Any further devolution of tax powers might in such circumstances only reduce the possibility of mobilisation of financial resources. A much better approach would be for the Union Government, which is a little less affected by such pressures, to continue to have these tax powers—and if possible, even the additional power to tax agricultural incomes—but ensure that a substantial part of the finances so mobilised are distributed among States on a statutory basis.

Another contention that has sometimes been raised in this context is that too much emphasis in the grant of assistance has come to be placed on Article 282 of the Constitution. As a matter of fact, because plan assistance is provided under this provision, assistance given under it has tended to become far more important than grants provided under other Articles—though the latter are subject to determination by a semi-judicial body like the Finance Commission. It is, therefore, sometimes suggested that grants of this magnitude should either be made subject to devolution through another semi-judicial authority or they should be brought under the Finance Commission's purview. The question of the proper relationship between the Finance Commission and the Planning Commission has also been raised in this context.

While it is obvious that the distribution of Central assistance among States, whether for plan or non-plan purposes, must be based on commonly accepted principles, the question whether the distribution should entirely or even mainly be made on the basis of semi-judicial awards needs to be carefully examined in all its implications. While it is only appropriate that the States should obtain a substantial part of Central assistance required to meet their normal (non-plan or committed) expenses by a system of statutory devolution, and even some proportion of the plan requirements should be automatically available to the States, it would neither be desirable from the point of view of

the requirements of national finance nor in the interest of national development that the bulk of the plan assistance should be available to the States unconditionally as a matter of right. While in normal times, quite a substantial part of the Central revenue should be made available to the States in keeping with the requirements of the States for development in subjects allotted to them under the Constitution, occasions can arise when the Union Government may be required to divert substantial amounts to purposes under its control, such as defence. It is, therefore, necessary that decisions about how much of the total Central revenue over a period of time should be retained for Union purposes and how much should be made available to the States should not be immutable beyond a point; some discretion to the Centre in this matter is necessary. Further, as explained later, the Centre should be in a position to ensure, albeit in broad terms, that a State satisfied certain essential requirements regarding its plan effort before it becomes entitled to its allotted share of plan assistance. While it is obvious that the Centre should not arrogate to itself the authority to decide all manners of details regarding the developmental effort of the States, the national plan as a whole cannot be properly carried through unless the Centre can use the lever of financial assistance to ensure the States' compliance to certain basic directives given in the interest of the development of the country as a whole. To ensure that the Centre does not unduly utilise these powers, it is necessary that the Planning Commission enjoys the trust and confidence of the States as well as the Centre for its professional competence, political integrity and impartiality.

It is also necessary to make sure that the Finance Commission does not come to operate in a vacuum. For this purpose, maintaining a nucleus secretariat for the Finance Commission, which would be adequately in touch with the studies in State planning and finances being undertaken in the Planning Commission, is essential. The coordination between the Planning Commission and the Finance Commission may take any suitable form; one member being common may be one alternative to be considered. What is important is that the work of these two bodies should be closely coordinated.

Ideology and Centre-State Disputes

It is sometimes felt that with different political parties or party combinations coming into power at the Centre and in different States, a special difficulty has arisen in the way of effective formulation of a national plan. But the experience of the formulation of the Fourth Five Year Plan in the period since 1967 does not suggest that ideological differences among parties in power create any special difficulties in planning. As a matter of fact, almost all States have similar attitude

to the Centre. In matters like mobilisation of resources, they all want the Centre to do a great deal but are themselves not only reluctant to take the measures suggested by the Planning Commission for the States but are not always ready to provide administrative support to the Centre regarding measures that may be disliked by vocal sections.

Taking the concrete problems that economic development in India faces, especially in the spheres allotted to the States, the possible impact of ideological differences does not appear to be important. The only possible major difference of opinion could have been about land reforms; but hardly any important political party opposes these in principle. The real problem is not one of ideology so much as of a clear understanding of what is required and the building up of effective instruments to carry it out. Political courage to tax certain elements of the population which have benefited from development efforts in the past and without whose contribution further development effort cannot be easily sustained, is also necessary. Concrete measures in this direction might involve some ideological difference. The main difficulties, however, are the absence of farsighted approach, political courage, and administrative ability.

Political Instability

Political instability seems likely to be in future a much greater source of potential weakness in development planning than ideological differences. Experience regarding the policies pursued by different parties and party combinations that have been in power recently in certain States suggests not only that decision making on a sustained long term development plan suffers with unstable legislative support but also that there is an obvious unwillingness to do anything which might adversely affect any major section of the electorate. Economic development cannot be ensured without the citizens themselves paying the necessary cost, undertaking efforts and making sacrifices. Asking for more Central assistance and putting all blame for various ills on the Centre may appear to be a short-term way out but it can obviously solve no real problem. At the same time, it is important that the Centre shows not only tact but also the necessary courage in meeting its own responsibility to solve inter-State disputes which obstruct development. The reluctance of the Centre to use the Constitutional provision available for such purposes, permitting matters like inter-State river disputes to drift for years, cannot but affect development planning adversely.

Some Central Direction Essential

It should not be overlooked that, in attempting to remove the anomalies in Union-State relations in planning resulting from the

Union Government's undue domination in the past, the Union Government and the Planning Commission may lose control over the levels through which adherence to an overall national plan and its essential requirements can be ensured. Both political and administrative influence and the scheme of financial assistance for planning have been responsible in earlier years for ensuring that the States fell in line with overall national policy in some essential respects. This happened, for example, in a major policy like land reforms, though the implementation of this policy left much to be desired. But increasingly, especially in recent years, the Centre's political and administrative influence has declined. At the same time, Central development assistance is coming to be distributed with few conditions. The Centre's ability to ensure that certain essential development plans, policies and programmes are accepted and implemented by the States, is thus being steadily eroded. The best evidence of this is the States' refusal, right since 1962, to improve genuinely their planning apparatus. Another example is the indifference, if not hostility, evinced by most States to the suggestions of the Planning Commission regarding mobilisation of more financial resources for development—through more rational charges for irrigation and electricity, limitation of non-developmental expenditure, and tapping important tax resources, especially the increasing income of well-to-do farmers. Unless the Union authorities—both the Planning Commission and the finance ministry are able to insist on a major part of financial assistance becoming available only on certain specific conditions, would it be possible to ensure that States adopt appropriate development measures? Leaving this entirely to the will of the States might be politically expedient but it would constitute an abandonment of national planning. Moreover, what one State does in a field like sales tax, for example, has very much to be related to what the neighbouring States are doing. Large differences among neighbouring States in policies regarding irrigation and power rates create economic as well as political difficulties. It is economically as well as politically undesirable that some States remain far behind in economic progress or that they mismanage their affairs. It is the Union Government which has the ultimate responsibility to ensure that this does not happen; that is why it enjoys superior financial as well as other powers under the Constitution. Using financial powers in time is far better than resorting to coercive ones when things go out of hand.

What is suggested is not a return to the old pattern of detailed Central control. But surely the Centre cannot abdicate the responsibility of ensuring that development efforts are undertaken by all the States up to a minimum degree. Incentives by way of extra payments, or withholding of promised assistance, might both have their uses.

As mentioned earlier, the Planning Commission has authority under the new scheme of assistance to insist on non-diversion of outlay on certain specific heads of development and also on reducing Central assistance pro-rata if the overall plan outlay of the State falls short of approved outlay in a plan period. But is this enough? Should not the Centre be in a position to induce the States to pursue certain specific policies?

Development Bank

The proposal to create a National Development Bank was put forward by an ARC Study Team as one method through which the grant of Central assistance could be rationalised. Past experience suggests that it is essential to ensure that major projects which are included in the plan by a State are based on a study of different alternatives. It is also necessary to make certain that the selected projects are undertaken after proper preparation, and that they are executed speedily and economically. One difficulty in ensuring this has been that the assistance for State projects is provided as an inter-governmental transaction. Of course, there is no necessary reason why the Central Government through the department concerned should not make sure that the project is properly formulated and the organisation for execution established before assistance is actually made available; and further that the assistance is so utilised that the project is completed in the stipulated period of time, and within the estimated cost. Experience up to now, however, indicates that the departments and ministries of the Central Government are in practice not able to make sure of these conditions being satisfied. Even in irrigation and powerschemes, where the Central Government has an excellent technical agency—the Central Water and Power Commission—at its disposal, it has not been possible to ensure that these conditions are satisfied. It has also not been possible for the Union Government to make sure that arrangements for the exploitation of the potentialities of a project are made at the proper time, and that the charges levied are such that the maintenance of the project and the payment of interest as well as the repayment of the principal do not become a further burden on the State Exchequer except in those few cases where subsidy is deliberately sanctioned. Equipping Central ministries and departments to undertake these functions may not always be feasible; and political pressures can operate on them directly so that they cannot always insist on such conditions. Reorganising the approach and functioning of the Central Government ministries and departments for this purpose may, therefore, not be practicable.

It was, therefore, suggested by the ARC Study Team on Financial Administration that a National Development Bank may be set up

which will be in charge of the disbursement of Central loans to State authorities for identifiable productive projects. The ARC itself did not support the idea and it has also not found support from other Union authorities. It is not known whether the Planning Commission itself is in favour of the idea, but it has not sponsored the establishment of such an institution. However, what has happened is that institutions in particular fields of activity are coming to operate on these lines. Thus, the Rural Electrification Corporation is operating on a commercial basis—providing loan assistance for schemes, charging differential rates of interest according to the backwardness of the region and insisting on techno-economically sound schemes and levying of proper charges. The fact that the Life Insurance Corporation is coming to play an important role in providing loans for housing, slum-clearance and similar developments, would ensure that a similar commercial approach would be adopted regarding these schemes. Even before the nationalisation of major banks, they were expected to play an increasingly active role in financing schemes for the development of agriculture and small industry. After nationalisation, this trend is expected to develop faster and the banks would obviously have to make sure that the finance provided by them is properly utilised on viable schemes.

The major gap in this would be in irrigation and power schemes. It is necessary that something must be done regarding a banking approach towards their financing. With political instability facing the Central as well as the State Governments, the temptation for Governments to take decisions on the basis of short-term expediency is considerable. Our experience in the past, when there was greater political stability, suggests that the State Governments may choose projects which are not economically justified, take up more projects than can be simultaneously executed and, in their attempts to court popularity, not levy proper charges on those who benefit from the projects. The Central Government may not always be able to resist such tendencies on the part of the States because of political pressures. An autonomous financial institution, specifically charged with responsibility to work on commercial lines, might be in a somewhat better position. It may be able to insist on objective criteria for selection of projects and to ensure efficient execution, economic utilisation of the capacity created, and the levy of proper charges for the services rendered. Whether even a banking institution would be in a position to do this would, of course, depend not only upon the charter that it is given but also upon the personnel made available to it. This organisational device could, however, be of significant use in our present context. To some extent, this would also be a method of taking such problems out of the field of current party politics—or what is sometimes called

'depoliticisation'.

Depoliticisation

'Depoliticisation' of certain problems is necessary in any democracy to ensure that vital policies and programmes are not adversely affected due to political controversies and changes. This is even more important in a federal country, where the parties in power at the Centre and in the States may be different. We already have such an approach. For example, the Finance Commission is an instrument with the use of which the devolution of certain types of financial assistance is decided upon through the award of an expert, neutral body. The conversion of the Planning Commission in 1967 into a more professional and expert body, less prone to political influence, was a step in the same direction. The creation of a Development Bank for administering loan assistance for identifiable projects would be another similar method. The creation of professional, expert planning agencies in the Central ministries and also in the States could also increase the possibility of there being a much greater mutual appreciation and understanding of the problems under dispute. Professionally acceptable solutions to many such problems could be worked out either before they come up at the political level or on the basis of certain assumptions or formulae which political leaders might agree upon. While it is true that planning which vitally affects the life of the community—both of the present and the future generations—cannot ultimately be kept out of politics, many aspects of it can be depoliticised in these ways. The more this can be done, the less the possibility of exacerbating Centre-State relations on account of planning.

CONCLUDING REMARKS

Centre-State relations pose difficult problems in all federations. This happens especially because many aspects of these relations, unforeseen or only dimly understood at the time of Constitution making, later come to the forefront. In India, with all the centralising tendencies which dominated over a century of British rule, centrifugal tendencies could not but become stronger as democracy began to strengthen its roots among the diversity of her millions spread over a vast territory. In spite of all their differences, people come together when faced by external aggression as was evidenced by the unity shown by all the States rallying behind the Centre in 1962 as well as in 1965. If the country is to progress, however, it is not enough to unite for war; it is as important to unite for a common positive purpose, such as that of economic development. Jawaharlal Nehru thought of development planning as the new, strong, and positive bond that would hold the country together. In pursuance of this, institutions,

such as the Planning Commission and the National Development Council, were created which, though no statutory basis was provided for them, have struck deep roots and have played a vital role in the working of the federal system in India. Various working conventions have been evolved and major developmental tasks undertaken by common consent through the operation of these institutions.

As happens in any institution, what might succeed in the initial phase of enthusiasm and on a temporary basis may not successfully operate for long. This is evidenced by the difficulties that arose in Centre-State relations in planning specially since the time of formulating the Third Five Year Plan. With Jawaharlal Nehru's death and the economic and political difficulties that faced the country since 1965, the problems became acute and the changed political situation made it obvious that a much better thought out and rational basis for Centre-State relations, in all fields, was necessary. Various attempts have been made since 1964, and specially since 1967, to meet this challenging task. The reorganised Planning Commission has gone a long way since 1967 to put Centre-State relations in planning on a more systematic and rational basis. However, experience of the last two years suggests that what has been done is not enough. Much more needs to be done if development planning is to proceed ahead, firmly founded in a national understanding and acceptance of the challenges involved. It is with a view to meeting this requirement that a few ideas have been put forward for consideration in this paper.



Union-State Relations in Finance and Planning*

G. Ramachandran

OUR CONSTITUTION has envisaged an essentially federal structure of government which by definition implies that the Centre and the constituent units alike have their own independent responsibilities to discharge. In considering the relationship between the Centre and the States in this federal context, one should also remember that India is a vast country which on account of historical and other factors exhibits considerable diversity amidst a basic unity. Substantial freedom of action for the units is, therefore, not only desirable but also absolutely necessary. We have also adopted a democratic form of government. Democracy will become a potent force for development only to the extent it secures the intelligent and active participation of the people in the programmes of government. State Governments and local bodies under them are closer to the people and are in charge of functions which touch the lives of the citizens much more intimately than those of the Central Government. From the point of view of ensuring an administration responsive to the needs of the people too, it is essential to ensure that the State Governments including also local bodies under them are enabled to function in as effective a manner as possible. Any one interested in economic development within a democratic framework will, therefore, readily concede that the States have a vital role to play in our body politic and that it should be our endeavour to avoid "apoplexy at the Centre and anaemia in the parts".

The special position occupied by the States in the Indian federal set-up being thus established, it follows that the States should have resources commensurate with their responsibilities. It would no doubt have been an ideal arrangement if the Centre and the States had each been endowed with its own separate sources of revenue sufficient and

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elastic enough for meeting its responsibilities. But in a modern economy with full freedom of commerce within the country, the more elastic sources of revenue such as excise and income tax cannot be satisfactorily administered by any smaller unit than the federal government. In the delimitation of powers of taxation of the Centre and the States under the Constitution, the comparatively elastic sources of revenue had thus to be left with Centre, taxes with narrow and local base alone being reserved for the States. The framers of the Constitution, however, recognised the need for providing the States access to larger resources to match the growing expenditure on developmental services, which were primarily their responsibility, and hence provided for devolution of resources from the Centre to the States and for its periodic review by a Finance Commission. From the scheme of the Constitution, it is clear that the emphasis was on devolution of resources in a manner which would foster the sense of financial responsibility of the States rather than on discretionary grants-in-aid. Article 275 of the Constitution is the main proviso of the Constitution dealing with grants-in-aid of the revenues of the States and it is significant that this Article occurs in the section dealing with distribution of revenues to the States. Article 282 of the Constitution on the other hand occurs in the section dealing with miscellaneous financial provisions and permits the Centre as well as the States to give grants for any public purpose. It could never have been the intention of the framers of the Constitution that the latter Article should be overworked as to become the more important instrument of financial assistance to the States enabling the Centre to assume in the process control even over subjects which under the Constitution are wholly within the competence of the States. Out of the total revenues of the States of Rs. 7,314 crores in the Third Plan period, the grants given on the recommendations of the Finance Commission under Article 275 accounted for only 4.9 per cent, while those made outside the Finance Commission's award accounted for 13 per cent, of which the bulk was given under Article 282 of the Constitution. The increasing reliance of States on discretionary Central grants has naturally led to a situation in which the constitutional division of functions between the Centre and the States is getting blurred, and the Centre is able increasingly through the mechanism of grants to influence State Government's policies and even decisions of administrative nature in fields such as education and public health.

These trends are no doubt in a sense the inevitable concomitant of Central economic planning. Planning, comprehending as it does the whole range of economic development, has necessarily to cut across the lines drawn by the Constitution between the Centre and the States. Insofar as the plan seeks to promote certain national priorities and

objectives, some sacrifice of independence of action on the part of the States cannot be helped. One should in fairness also concede that planning, while limiting the freedom of action of the States, has helped to promote uniform policies calculated to aid economic growth and has imposed a measure of discipline on the States in regard to control of non-plan and non-developmental expenditure. The States have also been persuaded to undertake various measures for mobilisation of resources on a scale which left to themselves they may not have undertaken. To this extent, the powerful control exercised by the Planning Commission through discretionary Central assistance for economic development has helped to raise the rate of capital formation in the country. Discretionary grants-in-aid within the framework of the plan have also been a mechanism through which resources have been diverted to comparatively backward States and have thus helped to bring about a measure of equalisation in standards of social services and economic development.

But the growing dependence of States on the Centre should cause concern to all those who have faith in the essentially federal character of our Constitution. The increasing dependence of States on the Centre is inherent in the very scheme of division of responsibilities between the Centre and States for economic development under the plan. Apart from outlays on power, the expenditure on plan schemes in the State sector whether on revenue account or capital account relates mostly to schemes of agricultural production and welfare services such as medical relief, education and harijan uplift which do not bring in any direct financial return to the States. The problem of servicing of the large public debt contracted for the fulfilment of the plan also becomes increasingly difficult. The outlays in the Central sector of the plan have, however, been on productive schemes like development of heavy industries, minerals, transport and communications which may in due course be expected to bring in their own returns. With the steady increase in national income and more particularly the growth of production-organised-industry, the resource base of the Centre is automatically broadened. The very process of development thus entails increased revenues to the Centre and greater liabilities to the States. Any attempts at ensuring a more balanced and viable financial relationship between the Centre and the States should keep in view this built-in feature of our economic plans. But the procedure followed by the finance commissions of recommending devolution of resources to the States with reference to only non-plan needs renders inevitable the continuing dependence of most of the States on Central grants-in-aid for financing the revenue component of their plans. The fact that these grants are conditional and are canalised through a maze of patterns is further calculated to deprive the States of all initia-

tive and flexibility in formulation as well as implementation of plans.

Our plan itself falls in three distinct parts—Central, State and private sector. Big projects such as steel plants, development of ports and railways, fall within the Central sector and the Centre should have adequate resources for the fulfilment of its responsibilities in these sectors. But the Plan also recognises certain fields of development such as agriculture, education, health and power as falling within the sphere of the States and it is necessary to ensure that the States are provided with resources for the fulfilment of their plans in a larger measure by statutory devolution.

This may well call for a review of the present provisions of the Constitution relating to distribution of revenues between the Centre and the States. The Constitution at present provides for :

- (i) the obligatory division of Income tax proceeds between the Union and the States;
- (ii) permissive division of the proceeds of Union Excise duties;
- (iii) the assignment of certain taxes raised by the Union but wholly allocated to the States such as estate duty; and
- (iv) Certain duties to be levied by the Union but to be collected and entirely appropriated by the States such as stamp duties on items in the Union list.

Of this, income tax, particularly after the change regarding the classification of income tax paid by companies has ceased to be a significant source for transfer of resources from the Centre to the States. The divisible pool of income tax has already been raised to 75 per cent and in view of the need to give the Centre a continuing significant interest in the exploitation of this source, it will not be possible to raise the share of the States further. Duties on excise have, therefore, since the award of the Third Finance Commission, become the more important instrument for transfer of resources from the Centre to the States. The proceeds of all Union excise duties are now shareable and the States' share has been fixed at 20 per cent. But it is doubtful whether excise duties will exhibit the same degree of buoyancy as in the last decade in which their coverage was considerably enlarged. Almost all articles of mass consumption and those produced by the organised industrial sector are subject to excise. In view of the impact of excise duties on price levels, the scope for further increase in the rates of Union excise is seriously limited. Devaluation has raised the cost of new equipment and increased the obligations in terms of rupees of industrial undertakings which have acquired imported equipment on deferred payment terms. The need to raise larger rupee resources for the servicing of these obligations

may well call for an increase in prices which may, on grounds of policy have to be neutralised by adjustments in excise levies on the commodities concerned. All this means that in future the Union excise duties may yield increased revenues only in relation to the growth in the output of the commodities subject to the levy.

While the prospects of growth of the principal central taxes now shareable are not quite so good as in the past, the needs of the States are, however, bound to grow at a faster pace. Planning has led to "a revolution of rising expectations" and people naturally now expect better standards in social services such as education, public health, rural and urban water supply. It is, therefore, necessary to exploit other sources of revenue for the benefit of the States. Reference has to be made in this context to the complaint of the States about the reluctance of the Centre to invoke the powers under Article 269 of the Constitution. The yield from succession and estate duties being negligible, inter-State sales tax is the only major source of revenue listed in Article 269 which has been tapped by the Centre for the benefit of the States. A tax on railway fares was imposed in 1957 but was soon merged with railway fares, a lump sum alone being paid to the States thereafter as compensatory grant. It is not as if the Centre had refrained from exploiting these sources of revenue for economic considerations. To illustrate, though the Centre has not levied any tax on railway freight for the benefit of the States, it has on more than one occasion in the past raised railway freight with a view to securing additional resources for development. The economic consequences of an increase in railway freight or an equivalent increase in the form of tax being identical, the Centre could well have levied such a tax. This will no doubt have limited the scope for increase in railway freight for the benefit of the Central revenues, but to the extent the States secured additional resources from tax on railway freight, their dependence on the Centre for financing plan schemes would have been lessened and there would, therefore, have been no net additional burden on the Centre.

Apart from a fuller and more extensive use of the powers contemplated under Article 269, it will be necessary to bring in also corporation tax by suitable amendment of Article 270 and make the sharing of the proceeds with the States mandatory. The increase in incomes arising from growth of industry and commerce will in future be largely in the corporate sector. It cannot be denied that it is the outlays in State plans on development of economic overheads such as power, roads and communications and technical education that facilitate the expansion of the corporate sector. The growth of corporate form of enterprise and urbanisation which it brings in its wake cast special responsibilities on the State in the field of industrial relations and

maintenance of law and order. From this point of view also, therefore, it is only fair that the States which bear the burdens of growth should participate in the prosperity of the corporate sector and that to this end the proceeds of the corporation tax should also be made shareable.

Even with the widening of the scope for sharing of Central taxes with the States, the resultant devolution of resources will not be adequate to take care of requirements of the States for the plans. This is because some of the significant items in the pool of resources for the financing of the plan are available only to the Centre and cannot be brought within any statutory sharing formula. Budgetary receipts corresponding to flow of foreign aid from abroad, open market borrowings of the Centre and deficit financing are, for example, some of the sources which cannot in any case be made shareable. We have, therefore, necessarily to continue the present separate arrangements for determination and routing of Central assistance for the plans as distinct from the non-plan needs of the States. The only question that arises for consideration is whether the assessment of the requirements of the plan needs of the States should be left to the Planning Commission, the Finance Commission being concerned only with the non-plan needs of the State. Successive finance commissions have already commented how the present dichotomy is unscientific. The present arrangements also lead to a situation in which the States are often obliged to present two conflicting sets of forecasts of revenue and expenditure. There is, therefore, need for vesting in the same body responsibility for taking a total view of the financial needs of the States both for plan and non-plan and determining the scale and pattern of flow of funds from the Centre to the States. Even under this system it will be necessary to keep the arrangements for meeting 'maintenance' needs conceptually separate from those of development. Assistance required for the plan will call for adjustments with reference to the progress in the execution of the plan and other economic indicators such as flow of foreign aid and trends in prices, and will, therefore, have to be necessarily on an annual basis. But the assistance for maintenance expenditure in the form of sharing of Central taxes or *ad hoc* grants under Article 275 can and should be for the quinquennium. The Planning Commission itself suitably reconstituted and placed on a statutory basis could undertake this responsibility. It should now be possible for the same body to undertake assessment of both plan and non-plan needs because the period of awards of the Finance Commission will, hereafter, be co-terminous with the plans. The procedure followed by the Finance Commission of making recommendations on merits in respect of each of the shareable Central taxes and meeting the needs of

financially weaker States in the form of grants under Article 275 of the Constitution results in a situation in which a few States, and that too financially strong States, get substantial surpluses on non-plan account which can and should be diverted for financing of the plan. The Fourth Finance Commission's recommendations have resulted in surplus with certain States of the order of Rs. 373 crores and unless such surpluses are taken into account and set off towards the financing of the plan, there will be grave inter-State inequities in allocation of Central resources for purposes of State plans. The work of the Finance Commission and Planning Commission, if kept separate, may well create a situation in which the States which have surpluses under the Finance Commission's award question the estimates of the Finance Commission, thus leading the Planning Commission, a non-statutory body, to pass judgment over the assessment of a statutory body like the Finance Commission following almost quasi-judicial procedures. On this ground alone, if not on others, it will be advantageous for the Planning Commission itself taking up on a statutory basis the functions now being discharged by the Finance Commission.

Even with this improvement in procedure, the important question will still arise whether Central assistance for the financing of the plan should be in overall terms or should be determined on the basis of what have come to be known as 'patterns of assistance'. Central assistance for the plan is now of two kinds : (i) assistance given for 'Centrally assisted' schemes ; and (ii) assistance given for 'Centrally sponsored' schemes. The main distinction between the two lies in the fact that while the assistance for Centrally assisted scheme is within the overall ceiling of assistance for the State plan, the assistance for Centrally sponsored schemes is outside the State plan, the share of the State, if any, under the schemes being alone accommodated within the State plan.

The patterns of assistance seek to lay down a formula for sharing of expenditure on individual schemes included in States' plans. There are now well over 200 such patterns and even those who stand for a greater measure of control over State plans will readily concede the need for simplifying the patterns considerably. The patterns of assistance under a few heads, particularly 'cooperation' are needlessly complicated. It should also be stressed that since 1958-59, the patterns of assistance have ceased to serve any useful purpose. It is the allocation of Central assistance, loans and grants for different heads of development as communicated by the finance ministry, which is really of significance to the States in regulating expenditure. Though it is often argued that the assistance under each head of development is generally fixed with reference to outlays on individual schemes and

the patterns of assistance therefor, it is our experience that the finance ministry generally keeps down the grant component of Central assistance with reference to budgetary considerations. The grants which the States have been getting for plan schemes are, therefore, often less than what they are strictly entitled to receive on the basis of patterns. While the patterns of assistance have thus failed to assure adequate grant assistance to the States, they have equally failed in their objective of influencing the policies and programmes of the States according to the wishes of the Central ministries. Under the existing procedure in which Central assistance for the plan as a whole is initially agreed upon, and its break-up into loans and grants subsequently determined, a State implementing the plan according to its own priorities in effect gets the Central assistance promised so long as it is prepared to forego the grants due to it in proportion to default in expenditure under particular heads of development. The only real limitation on the freedom of States is that outlays for agricultural production and cooperation are not to be diverted. The present rule that diversion or readjustment of outlays even under the other sectors should take place only in consultation with the ministries and the Planning Commission is largely a dead letter. The Planning Commission could not insist on adherence to outlays as originally agreed upon, because at the time of consideration of the revised estimates for any year, States generally present the Planning Commission with a large gap in resources and the Planning Commission is only too glad to acquiesce in any *inter se* diversion so long as increased expenditure of unavoidable nature under particular heads is somehow covered by suitable readjustments within the plan. With estimates of costs of projects often going awry, it can reasonably be forecast that occasions for diversion of outlays from one head to the other are bound to arise in future too and that the Government of India and the Planning Commission will have no alternative but to tolerate such diversions.

The present patterns of assistance, do not serve even the purpose of enforcing adherence to the outlays as originally agreed upon. In favour of continuance of the present patterns, it is argued that the priorities of the Plan will be distorted if loans and grants-in-aid are not tied. When there is widespread public awareness of the objectives of the plan, no State can afford to ignore the priorities of the plan. With greater freedom and flexibility in implementation of the plan programmes, the States will have a keener sense of financial responsibility and aim at greater economy in utilising its scarce resources. For example, but for the clouding of their judgment through patterns of assistance laying down details of staffing arrangements, it is extremely unlikely that the States would have adopted the community development programmes with its present rigid staffing patterns.

Many States knew for example that there was not adequate work for extension officer (industries) in every block. But even so, because of the prescription of a uniform pattern, the States had to fall in line. Similarly, while family planning programme may be of national importance, the prescription in detail of categories of staff to be maintained at block and higher levels results in practice in wasteful expenditure. If Central assistance is given in overall terms and the States are left free to determine the staffing patterns, it is not unreasonable to hold that States might have made better use of the resources placed at their disposal. The point has also to be stressed that Central ministries themselves have often tended to distort plan priorities by attaching undue importance to some of their own programmes.

Suggestions for simplification of patterns of assistance and greater freedom to the States in utilisation of Central assistance for the plan are often resisted on the ground that the States have tended in the past to divert plan outlays from one head to the other, thus distorting the relevant priorities of the plan. It has been complained specifically that in this process States have neglected agricultural production. It has also been urged that through such diversion of plan outlays from one head to the other, the development of social services, particularly of programmes like girls' education, establishment of primary health centres and eradication of communicable diseases, has suffered.

It is necessary to examine closely the circumstances in which there has been a divergence between outlays as originally planned and expenditure as actually incurred. Diversions of outlays which have been noticed on a large scale in the Third Plan are, in my view, of two kinds, unintended or unplanned diversions and deliberate or planned diversions. The shortfalls in outlays under agricultural production noticed in the early stages of the plan and the consequent diversion to the other sectors were largely of an unplanned character. Many of the agricultural programmes such as establishment of seed farms, distribution of improved seeds, production of green manure and compost are by their nature difficult to implement. The departments having optimistically planned for large outlays found it difficult to utilise them effectively. At the same time, a few other departments like irrigation and power with a large number of spill-over schemes in an advanced stage of execution were in a position to absorb larger outlays than originally earmarked for them at the time of the drawing up of the annual plan. It is in this process that the diversions had occurred from sectors like agricultural production to those of irrigation and power. The other kind of diversion—planned diversion—mostly from social services to other sectors has been forced on the States largely by escalation in costs of important irrigation, power and other projects and the difficulties which the States had to face in mobilisation of

resources. With the sharp increase in the estimated cost of important projects and the 'lumpy' nature of investments in them, the States had no other alternative but divert a portion of the outlays earmarked for social services for pushing through irrigation, power and other projects involving a large capital outlay. It may not be out of place here to invite attention to an important point of difference between irrigation, power and other similar intensive projects on the one hand and social service programmes on the other. The outlays on social services programmes are made up of expenditure on a number of small schemes and the pace of expenditure on these schemes, therefore, lends itself easily to adjustment. It is easy for example to slow down the programme relating to primary health centres and provide for say, only 100 as against 200 primary health centres. The outlays on power and irrigation projects do not lend themselves to such easy adjustment and have to be provided for in full with reference to progress of the works and schedules of deliveries of machinery and equipment.

Any criticism of the diversion of outlays from one sector of development to the other should, therefore, take note of the fact that such diversions were occasioned not by any lack of awareness on the part of the States of the relative priorities of the plan, but by the hard choice forced on them due to difficult resources position. The remedy for such diversions is not a further tightening up of the procedures and patterns of Central assistance, but a more realistic estimation of cost of projects and an appropriate price policy which will help to keep the costs of projects down. Erosion of the resource base for the plan through increase in non-plan expenditure such as on emoluments of public servants has also to be guarded against. If these two important problems are tackled on right lines, it will be easier for the States to adhere to the plan outlays as originally programmed under different heads of development, even without the patterns of assistance. If without tackling these two fundamental problems, we merely seek to limit the freedom of the States through enlargement of the list of Centrally sponsored schemes or through the earmaking of Central assistance for particular schemes, all that will happen is that other programmes not so tied up and left to the discretion of the States will take a proportionately larger cut when the States are faced with inadequacy of resources.

Even if the present complicated patterns of assistance are replaced by a system of block loans and grants for plan schemes, the Centre has got other powerful levers for influencing the policies of the State Governments. In regard to schemes involving an element of foreign exchange—most of the important schemes in sectors like industries, power and irrigation will come under this category, the States are in

any case completely dependent on the Centre. The Centre also regulates the borrowing programmes of the State Governments under the powers vested in it under Article 293 of the Constitution. Programmes involving large capital outlay cannot thus be undertaken without the concurrence of the Centre. There is, therefore, no reason to apprehend that the States can deviate significantly from the priorities as determined in the five year plans and annual plans. Out of the overall Central assistance, the grant portion may be determined with reference to the revenue component of the plan minus the additional taxation to be levied by the States for the plan and balance from current revenues if any, can be covered by grants from the Centre.

It is recognised that a complete break with the practices as have evolved over 15 years of planning may neither be feasible nor acceptable to the Central ministries. Also, in the present difficult economic situation in which high priority has to be attached to certain programmes such as agricultural production, a measure of tying of loans and grants may be inescapable. But such tied assistance should be restricted to sectors of overriding national importance. Out of the overall loan and grant assistance for the plan, specific assistance may be earmarked for agricultural production programmes including minor irrigation, so that the States may not divert outlays intended for agricultural production for other purposes. Likewise, in view of the national importance of irrigation and power projects, loan assistance for these programmes may also be earmarked. These three sectors with earmarked assistance by themselves form a very significant segment of the State plan. With this freedom, State plans will reflect more faithfully local needs. The States will have an incentive to mobilise resources to the maximum possible extent and register progress in all spheres including social services.

There is no reason to fear that with a system of block loans and grants the grip of the Centre or the Planning Commission over the planning process in States will be weakened. The present system is not in any case quite effective insofar as it seeks to regulate in detail the policies and programmes of State Governments. If instead, emphasis could be laid in greater measure than at present on inspection, performance, audit and evaluation of programmes in State plans, better results could be achieved.

Union-State Financial Relations*

J. Shivakumar

THE FINANCIAL basis of the relationship between the Union and the States has been the subject-matter of a serious debate during recent years, particularly after the emergence of several non-Congress State Governments in 1967. This is hardly surprising, when we recognise that most of the problems which the States encounter can be ultimately traced to inherent deficiencies in the constitutional provisions which regulate the financial relationship between the Union and the States. For instance, it has been clearly established that the over-drafts problem and the mounting indebtedness of States are typical consequences of such an unsatisfactory arrangement. But it cannot be said that the States alone have suffered in the process. The Union too has borne its share of the problems that have been posed. One of the major weaknesses in our plans has been our failure to siphon off an adequate share of the additional incomes generated in the agricultural sector for investment in plan schemes—a lapse for which the States are almost entirely to blame. Likewise, the absence of an arrangement which recognises and gives credit to States which have prudently managed their affairs has encouraged irresponsibility among the States in the form of wasteful and avoidable expenditure, which, in due course, is invariably loaded on to the nation's tax-payer through the mechanism of the finance commission. Even in regard to investments, returns—both in the economic as well as financial sense—have often been ignored while taking decisions, since mere availability of resources for a particular activity is often the sole basis on which the path of an activity is guided. Again, the absence of a critical and searching review of the needs of the Union, while assessing the competing needs of the States, has given rise to a virtually uncontrolled growth of bureaucracy at the Centre. All these drawbacks and failings are but symptoms and inevitable consequences of the basic deficiencies in the pattern of Union-State financial relations enshrined in our Constitution.

*From *Indian Journal of Public Administration*, Vol. XVI, No. 2, 1970, pp. 203-19.

CONSTITUTIONAL PROVISIONS

We shall now refer to some of the detailed provisions of the Constitution. Articles 268 and 281 of the Constitution deal with distribution of revenues between the Union and the States. In the seventh schedule, items 82 to 92(a) in the Union list, and items 45 to 63 in the State list refer to the sources of taxation. The taxes included in the Union list can be broadly classified as follows : (i) *Taxes which wholly accrue to Union Government and no portion of which is assigned to State* : Under this head, duties of customs, including export duties, corporation taxes and taxes on the capital value of assets, exclusive of agricultural lands of individuals and companies, have been included; (ii) *Taxes which are levied and collected by the Union and which are compulsorily shared between Union and the States* : Under this head, tax on income other than agricultural income finds a place ; (iii) *Taxes which are levied and collected by the Union but may be shared between the Union and the States* : Duties of excise on tobacco and other goods manufactured in India, except alcoholic liquors and narcotic drugs, come under this category; (iv) *Taxes which are levied and collected by the Government of India but which are wholly assigned to the States* : Article 269 lists seven taxes which come under this category. These are estate and succession duties in respect of properties other than agricultural land terminal tax, tax on railway fares and freights, tax other than stamp duties on transactions in stock exchanges and future markets, tax on sale or purchase of newspapers and on advertisements published therein and tax on sale or purchase of goods other than newspapers where such sale or purchase takes place in the course of inter-State trade or commerce; and (v) *Taxes which are levied by the Union but collected and appropriated by the States* : Stamp duties and duties of excise on medicinal and toilet preparations are included under this category.

With respect to all items included in the State list, the State has the sole jurisdiction to levy tax and the proceeds can be wholly utilised by the States. The most important items are land revenue, duties of excise on alcoholic liquors and narcotic drugs, general sales tax and sales tax on motor spirit, stamps and registration, entertainment taxes, electricity duties, tax on motor vehicles, tax on agricultural income, and estate duty on agricultural land. Apart from this, the States' powers also extend to taxes on lands and buildings; taxes on entry of goods into local area on consumption, use or sale therein; tolls; taxes, on animals and boats; and taxes on professions, trades, callings and employment. In practice, however, most of these items have been exploited by the local bodies in the States rather than the State Governments themselves.

The framers of the Constitution recognised that the pattern of sharing of taxes envisaged by them would not be adequate to cater to

all the needs of the States. Article 275(1) of the Constitution, therefore, provides for parliament to determine by law the grants to be paid to such States as may be in need of assistance. While the first proviso of this Article enables the Government of India to make grants for promoting welfare of scheduled tribes, etc., the second clause is important which states that until parliament provides grants by law, the power of making grants shall be exercisable by the President by order and the President shall make such an order only after considering the recommendations of the Finance Commission. The parliament has so far not made any law under Article 275(1) but convention has it that the Finance Commission makes specific recommendations regarding the grants to be paid to the States and these are invariably accepted by the Union and approved by parliament. Apart from the statutory grants visualised under this Article, the Constitution, under Article 282, empowers the Union or the State to make grants for any public purpose even though the purpose may not be within the legislative jurisdiction of parliament or state legislature. This grant has been brought under 'Miscellaneous financial provisions'; but in practice, this Article has been mostly used for making plan grants to the States. A more detailed analysis of the operation of these Articles will be attempted later.

The constitutional provisions regarding revenue resources have so far been touched upon. Turning now to borrowings, while Article 292 empowers the Union to borrow within the territory of India upon the security of its consolidated fund within such limits, if any, as may, from time to time, be fixed by parliament and confers the power to extend guarantees within limits. Article 293(1) confers similar powers on the States, subject to the limits set by the State legislatures, if any. Clause (2) of Article 293 enables the Government of India to give guarantees in respect of any loans raised by the State, once again subject to limits laid down by parliament, if any. Article 293(3) sets a further limitation on the borrowing powers of the States inasmuch as it prescribes that no State can borrow without the consent of the Union so long as it has debt obligations towards the Centre to discharge, while Article 293(4) clothes the Union with powers to impose conditions while according consent under Article 293(3). Borrowing from outside the country is an exclusive privilege of the Union Government and so also deficit financing since these items figure in the Union list. The Union also has a commanding position in respect of the resources available with the banking system since banking figures in the Union list. From the foregoing it is clear that the most important feature of the Indian Constitution is the pronounced bias it has towards the Union. This is evident from the size and content of the Union list, the supremacy which the Union enjoys in matters included

in the Concurrent list and the wide residuary and emergency powers conferred on the Union.

FINANCE COMMISSIONS

Article 280 of the Constitution lays down that, by order, the President shall, within two years from the commencement of the Constitution and thereafter at the expiration of five years or at such earlier time as the President considers it necessary, constitute a Finance Commission. It shall be the duty of the Commission to make recommendations to the President as to :

- (a) the distribution between the Union and the States of the net proceeds of taxes which are to be or may be divided between them and the allocation between the States of the respective shares of such proceeds;
- (b) the principles which should govern grants-in-aid of the revenues of the States out of the consolidated fund of India; and
- (c) any other matter referred to the Commission by the President in the interest of sound finance.

The succeeding Article lays down that the President shall cause every recommendation made by the Finance Commission under the provisions of the Constitution, together with an explanatory memorandum as to the action taken thereon, to be laid before each of the houses of parliament. It is evident that the makers of the Constitution recognised that any pattern of sharing of resources between the Centre and the States would have to be flexible enough to meet the needs of changing times. It is with this view that provisions regarding the setting up of an unbiased and high-powered body to decide over the competing and conflicting claims of the Union, the States and the States *inter se* were framed. Whether the Constitution could be made even more sensitive and responsive to the changing circumstances through appropriate amendments to its substantive provisions at convenient intervals is a matter on which various views are possible. It was the view of the Sarkar Committee, which went into the financial provisions of the Constitution, that the Finance Commission should take upon itself the role of suggesting changes in the constitutional provisions. It is, however, unfortunate that all the five commissions which have so far been set up have been precluded from taking on this rather important study, since this has been kept outside their terms of reference. In theory, the finance commissions have considerable powers to carry out radical changes in the apportionment of revenue resources between the States and the Centre. But by their very composition, finance commissions have tended to lean more heavily on a

conservative approach rather than on innovations and the reports of the five commissions have shown that these commissions are averse to proposing any large-scale changes in federal fiscal arrangements. The short interval between two successive finance commissions has in effect tended to make their recommendations transitory rather than lasting. While this gives a much-needed measure of flexibility, it also results in the main issues being evaded. The weaknesses of the financial provisions of the Constitution, and suggestions regarding how they can be remedied have been left to individuals to point out and, no matter how outstanding they may be, their views would hardly command the same amount of authority which any recommendations made by a Presidential Commission would carry. The Tamil Nadu Government has recently set up a three-man committee headed by Dr. P.V. Rajamannar to study this position and the final outcome of such study can, at this stage, be only eagerly awaited.

While the Constitution makes it obligatory for the finance commissions to give specific recommendations regarding the taxes which are to be or may be distributed among the Union and the States and also regarding the grants-in-aid payable to the States, the freedom of the finance commissions in arriving at such recommendations has in practice, been considerably fettered by the terms of reference prescribed for them. The terms of reference are unilaterally drafted by the Union finance ministry and it is common knowledge that there is no institutional arrangement by which the President makes an independent appraisal of the suggested terms of reference. An arrangement by which the States are consulted beforehand would be a step in the right direction but so far this has not been attempted. The result is that the Finance Commission is considerably crippled while making recommendations within the narrow limits prescribed for its activities. For instance, the commissions are compelled to take into account certain factors which they may have, on their own volition, chosen to ignore. As an illustration, the terms of reference of the Fifth Finance Commission make it obligatory for the Commission to reckon the levels of taxation reached by a State in the year 1968-69. If, in the judgment of the Finance Commission, certain measures of additional taxation deserve to be left out of account while computing the gap of a State and resources made available to the State for financing the plan, the Commission is powerless to do so in view of the specific directions in its terms of reference. Likewise, if the Finance Commission feels that its purpose could be better served if it made as searching a study of the finances of the Central Government as it does of the States, it is not encouraged to do so, as this has been left out of its terms of reference. Therefore, when criticism is levelled against the Finance Commission that it has failed to rise up to the expectations of the

Constitution-makers, the blame cannot be wholly laid at the door of the Finance Commission. The responsibility will have to be shared by the Union finance ministry which has so far been quite adept at defining the terms of reference of the successive commissions with its own interest foremost in mind.

The job of the Finance Commission is a thankless one and involves translating the competing claims of various States and the Union on the available resources into a basis for distribution of Central taxes and the determination of the quantum of special statutory grants to be paid to States. The procedure followed by the Commission so far has been to take, as the starting point, figures of receipts and expenditure of the various States based on existing levels of taxation and commitments, and then project these for the quinquennium under review. This enables the likely gaps on the non-plan account to be computed. Simultaneously, the pattern of sharing of Central taxes to be distributed among the States is finalised. The amount accruing to each State, as its share, is taken into account and the residuary gap is then estimated and is generally made good through grants under Article 275(1) of the Constitution. While carrying out these exercises, the First Finance Commission recognised the inherent defects in such a procedure and advocated prescription of certain uniform standards, such as level of services extended, tax effort, degrees of economy in expenditure and weightage for the peculiar problems of certain States. But though conversion to a common standard appears perfectly logical and reasonable, it did not lend itself to efficient implementation due to inadequacy and more often unreliability of statistical data. The hard choice before a Finance Commission is really between adoption of sound principles for the allocation of resources between the States and the Centre which do not lend themselves to equitable and uniform application when quantification is attempted and the adoption of distinctly less scientific and acceptable principles which nevertheless have the advantage of being amenable to precise and unquestioned transformation into reliable figures. The Finance Commission has to satisfy the States for whom justice should appear to have been done. The result has been that the States, however dissatisfied they may be with the awards, have been unable to substantiate any specific charges of unfairness on the part of the finance commissions, and have to rest content with loud outbursts against the 'raw deal' meted out to them, being unable to substantiate in more detail where and how they have lost. After all, the arithmetic of the Finance Commission is unassailable. The States are, however, left with a genuine grievance that the federal principles have not really been transformed into reality by the successive finance commissions.

So long as the computation of arithmetical deficits forms the basis for the Finance Commission awards, there is a factor which is more important than perhaps any other single factor, determines the response which a State Government receives from the Finance Commission. This factor has so far not been given the prominence it merits. It is the skill with which a State Government prepares its forecast and presents its case to the Finance Commission. Calculated steps are taken to see that taxes are not energetically collected in the base year so as to depress the base for projections for future years. All arrear payments and non-recurring payments relating even to future years are hastily settled to boost up figures of expenditure. Items hitherto classified under capital are dexterously transferred to the revenue heads. The committed component of Plan expenditure is very carefully manipulated, the State generously giving itself the benefit of doubt at every point. The base year figures are further tailored to the advantage of the State on dubious grounds, like elimination of non-recurring items under receipts, and the loading of additional commitments on the expenditure side. Serious arguments are raised in justification of patently unrealistic growth rates. The taxes suddenly cease to show buoyancy, but expenditure commitments merrily mount. There are hundreds of heads in any Finance Commission's forecast statement and if only the procedures indicated above are adopted with meticulous care, it is possible to boost up a State Government's deficit on non-plan account to an almost absurd extent. These are the skills which a State Government has to possess if they are to secure what they consider to be a fair share of the national kitty. No doubt, the finance commissions are also adept at this but this results in few realistic forecasts, which uninitiated States submit, being drastically slashed. Even a cursory study of the forecasts submitted by State Governments, and the actuals of the concerned years, clearly establishes the unreliable nature of the forecasts prepared. This is one of the strong arguments against the present procedures of carrying out arithmetical projections of the needs of the States.

Another major drawback in the functioning of the finance commissions lies in the manner in which additional taxation is reckoned for the purpose of computing the non-plan gap. We have already mentioned that on account of its terms of reference, finance commissions are compelled to take into account all additional taxation measures during the quinquennium preceding the period covered by the report. This may not have large impact on the States which are surplus but on the States which are eligible for deficit grants, this has an adverse impact. There is no incentive at all for such a State to tax because if it refrains from imposing taxes, it could pass on its

burdens in due course to the national tax-payers, rather than impose levies on its own tax-payer. A possible solution for this problem is to permit States to retain, for financing their plans, receipts from additional taxation measures enforced by them for at least a period of ten years. Unless this is done, one cannot blame the States for their reluctance to levy taxes. The States have several formidable hurdles to cross when they decide to tax, and if the benefit of such taxation is not enjoyed by the State for an appreciable period, it is not surprising that even the permanent civil service in such States should dissuade their political masters from embarking on taxation measures.

On the expenditure side too, a major defect in the procedure followed by the finance commissions is that of reckoning all commitments taken on up to a certain prescribed date. Dr. Bhabatosh Datta, Member of the Fourth Finance Commission, drew pointed attention to the unedifying spectacle of States racing against time to issue orders entailing large commitments. In this case, it is not the terms of reference which prevent the finance commissions, from taking a realistic view, but the hope that at least the Fifth Finance Commission would deviate from its predecessor in this regard has been belied. To cite an example, it has now become the fashion for the State Governments to announce pay commissions in advance of a Finance Commission so that the entire commitment arising therefrom could be met from the national pool of resources. If only finance commissions adopt certain standards in cases like this and provide for a measure of pay revision for States which have not taken such steps, it is quite possible that pay revisions could be postponed by a few years and in the process, larger resources released for development. However, the Fifth Finance Commission has, in paras 6-13 of its report, taken cognizance of only pay revisions already implemented. As a result, States which have prudently deferred pay revision have been penalised. Likewise, a uniform policy regarding returns from public-sector undertakings too would help in better financial management by the States. For example, so far as Electricity Boards are concerned, no uniform principles have been followed. Some of the finance commissions have underwritten financial losses by these Boards; others have not. Again, financial losses by themselves are not sometimes relevant. For example, there may be an electricity system which has a very low capital base on account of its stations being set up many years ago. There may be another which, on account of predominance of the thermal component, has to run at a loss since it cannot jockey up its rates in view of competition from a neighbouring predominantly hydel State. In such cases, it would not be proper to merely underwrite the loss or to expect the State to make up the loss. A comprehensive and searching review of the

tariff structure should be made. It is heartening to find that the Fifth Finance Commission has made an attempt in this direction and has recognised the inherent impossibility of Rajasthan and Assam raising their tariffs further, even though they are unable to earn full interest. But the finance commissions can go still further. For example, if we consider the case of Tamil Nadu and Mysore, even if the Mysore Electricity Board is able to break even, a finance commission having regard to the higher tariffs in Tamil Nadu and Andhra, could take credit for further increase of tariffs or the levy of consumption tax at least to a small extent in Mysore. Such a step would eliminate unhealthy competition between States in the matter of attracting new industries and would also subserve the national objective of strengthening the resources base of the country as a whole.

Another area where the finance commissions have so far been singularly ineffective is in its role in reducing disparities in development among the regions of the country. There is a close nexus between the Governmental investments which have flowed into a region and the advancement attained both agriculturally and industrially. It is common knowledge that even in regions where natural obstacles are formidable or where natural resources are scarce, significant development has taken place on account of well-planned investments. On the other hand, several richly endowed regions have not progressed at all due to lack of wise investment policies. The problem of agricultural backwardness will have to be tackled only through measures for incremental development implemented through the five year plans. Industrial backwardness has to be tackled in two stages; the first, through creation of suitable infrastructure in the form of power facilities, roads, educational facilities, hospitals, etc., the second stage will entail larger investments in industry itself in these areas. Both these stages will have to be implemented only through the plan. The finance commissions' terms of reference and perhaps also a rigid interpretation of grants which they are empowered to make under Article 275(1) of the Constitution forbid them from going into the capital needs of the various States. The only role which the finance commissions have in regard to investment programmes is in providing revenue resources for meeting interest charges and amortisation. It will, therefore, be pointless in the present circumstances for a Finance Commission to take upon itself the task of eliminating regional disparities. It should instead concentrate on the absolute needs of the States with reference to the levels already reached and leave it to the mechanism of the plans to eliminate regional disparities. While the finance commissions should ensure that advanced States are not prejudiced, there is need at the same time to ensure that they are not unduly benefited by taking into account interest charges and amortisation in

full while working out the necessary devolution. Some commissions have been guilty of this. Interest charges arise on account of borrowings which are primarily used for investments through the plan. On one hand, it can be argued that inasmuch as cash inflow on account of these investments are taken into account by the Finance Commission while working out the deficit, it is but logical and proper that interest and amortisation charges too should be reckoned as a legitimate item of expenditure. On the other hand, however, there is more substance in the view that the incidence of debt servicing on account of borrowings which enable larger investments should really be met by additional burdens on the taxpayers who directly derive benefit from such investments rather than the national tax-payers. It is perhaps time that the finance commissions devise a system by which part of the burden of debt servicing is compulsorily met during the quinquennium covered by the Finance Commission by additional resources to be raised by the State which has benefited. If only this is done, there will be less demands on the national pool of resources from advanced States and this would automatically make available more resources with the Centre for investment in the backward States, not through devolution by the Finance Commission but as part of the plan.

The scheme of devolution recommended by the successive finance commissions have generally resulted in large surpluses for certain States. These surpluses have been growing with time and according to the estimates of the Fifth Finance Commission, the surplus for seven States during the quinquennium 1969-74 is likely to be of the order of Rs. 1,270 crores as against the total surplus of Rs. 373 crores estimated by the Fourth Finance Commission for the quinquennium 1966-71. The Finance Commission has no doubt made recommendations that these surpluses should be taken into account while finalising the plan; but the Union has not been able to take the stand that, to the extent these surpluses have accrued, there should be reduction in the Central assistance for the surplus States, even though this is a perfectly logical position. After all, these surpluses are unintended benefits for these States and will have to be regarded as a flow of resources from the Centre to the States over and above the legitimate needs of these States. Examined from another angle, had only the base of devolution been lowered and larger recourse taken to Article 275(1) of the Constitution, this surplus could well have been eliminated and, in fact, replaced by *ad hoc* grants for all States except perhaps Maharashtra and Punjab—the non-plan accounts of these States were covered even without taking into consideration their share of Central taxes. Such a decision would automatically have increased the Central assistance for all the States over a thousand crores of rupees. This

would have enabled the backward States to have more viable plans. Such a step alone would make for a measure of uniformity in the levels of development of the various regions in the country.

THE PLANNING COMMISSION

The role of the Planning Commission *vis-a-vis* Finance Commission has come in for considerable criticism during the past decade or so. Strong views have been expressed regarding the encroachments made by the Planning Commission, which is an extra constitutional and non-statutory body, into fields which some regard as sole preserve of the Finance Commission. There is no dearth of opinion on the conversion of the Finance Commission into a permanent body, or on whether the Planning Commission should be periodically converted into a Finance Commission. Another is that the Planning Commission should be accorded a formal statutory status and its field clearly demarcated. Most of the arguments raised in this connection are legalistic and theoretical. The nation would be well-served if an arrangement could be devised whereby the finance commissions provide adequately for the absolute needs of the States on the revenue account while the Planning Commission makes objective assessments of the plan revenue and capital needs, and provides the framework and funds for incremental development in the States. The Planning Commission, as it is presently placed, cannot function with the same objectivity as the Finance Commission. There has, so far, been no instrument through which the competing claims of the Union and the States on the capital resources available at the national level can be settled. The Finance Commission's role could have covered this, but the official interpretation so far has been that Article 275(1) of the Constitution refers only to revenue resources. The terms of reference of the Finance Commission have, from time to time, restricted the scope of enquiry of the Finance Commission to recommendations regarding the quantum of revenue devolution. No doubt, certain subjects like indebtedness of the States and the overdrafts problem have been referred to the Finance Commission "in the interests of sound finance", but the Commissions have not so far been asked to make specific suggestions for the apportionment of capital resources available in the country between the Centre and the States. The finance commissions' field, therefore, has been confined to the revenue account of the States. Generally, the revenue component of the plan does not exceed about 30 per cent of the total annual outlay and, therefore, the finance commissions have little positive impact on the Plan. Since the finance commissions have been merely balancing the non-plan account, except in the case of surplus States, the entire revenue component of the plan has had to be covered through addi-

tional taxation by the States as also discretionary grants from the Centre as assistance for the plan. The question arises as to whether a more meaningful role should be assigned to the Finance Commission. In answer, it has to be pointed out that there is a basic difference in the approach that would have to be adopted between a body providing for absolute needs at existing levels, and incremental needs on a planned basis. This basic conflict in approach will severely cripple the functioning of any body to which both these roles are assigned. It seems desirable that the role of the planning which requires a totally different approach should be assigned to a body other than the Finance Commission.

The next issue which has to be examined is the selection of a suitable organisation to take on the role of planning for the nation. The criticism levelled against the Planning Commission regarding its impartiality as well as its status cannot be brushed aside. Planning finds a place in the Concurrent list of the Constitution and is, therefore, a joint responsibility of the Centre and the States. In practice however, on account of the political set-up in the States till 1967, planning in the country had become almost the exclusive privilege and responsibility of the Central Government; the result has been the development of the Planning Commission as a limb of the Government of India. Placed as it is, it enjoys little freedom of action and, therefore, plans for the States only on a residuary basis. It has no powers to make an independent and final assessment of the resources at the command of the Centre. It has an insignificant role in determining and controlling the levels of non-plan spendings of the Government of India, particularly in regard to defence expenditure. The role assigned to it has degenerated into one of distributing Central assistance arrived at on residuary basis among the competing States and simultaneously determining the size of the State plans, entirely on an arithmetical exercise of the resources available. If planning is to be really effective and if accepted priorities are to be enforced, there should be a planning organisation whose writ runs through not only the State Governments but also the Central Government. The manner in which this can be achieved is by according a statutory or constitutional status to the Planning Commission and taking it outside the control of the Government of India. In this connection, it may be mentioned that Article 263 of the Constitution visualises the setting up of an Inter-State Council and it should be possible, if necessary through a minor amendment to the constitutional provision, to set up a national body for planning of which the Planning Commission can be an executive organ. Such a set-up would ensure that the States participate in crucial decisions regarding the resources available for the plan, the size of the plan and the sectoral allocations. So far, there has been a

measure of rigidity regarding the size of the Union and State sectors. The priority accorded to a particular scheme should be made independent of the sector in which it figures; it should be subject only to the overall priorities of the plan. Such a national planning organisation can have at the State level, its branches in the form of State Planning Boards which perform not only the role of a limb of the National Planning Organisation, but could also advise the States on matters concerning planning.

CENTRAL ASSISTANCE FOR STATES

The question of apportionment of Central assistance among the States has been the subject of debate for quite some time. The emphasis has recently shifted from the employment of population as the main criterion to certain other indicators like per-capita tax effort, backwardness, special problems, spill-over outlay on irrigation schemes, etc. But the formula now evolved can hardly be considered as satisfactory. Central assistance for the State should logically have a bearing on the resources available with the State including devolution through the Finance Commission, the resources that the State can reasonably be expected to raise having regard to current levels of taxation and scope for additional mobilisation, and also the minimum plan that will be necessary for the State not only for the purpose of its development but also having regard to the need to achieve national objectives and attain a measure of harmony over the levels of development in the various regions of the country. The present formula for the distribution of Central assistance almost totally ignores all these factors, and will, therefore, not subserve the objectives of the plan. No doubt, some attempts were recently made to enable viable plans for certain States by channelising Central assistance 'through the backdoor' in the form of re-scheduling of debts to States which have non-plan capital gaps. But this step has been looked upon with suspicion and has not helped in placing the relationship between the Union and the State on a sound basis. By far, a more desirable process for planning would be for the State Planning Boards, under the guidance of the National Planning Organisation, to prepare plans based on national objectives and with a bias towards equalisation of developmental levels and for the national organisation then to assess resources available with the States and settle Central assistance. Under the present arrangements, this is not practicable since the political governments of the States would not desist from alleging discrimination so long as the distribution of Central assistance is done by a limb of the Government of India. But once a constitutional status is accorded to the Planning Commission and the Government of India's hold over the Commission weakened, a measure of acceptability will immediately be

accorded to any recommendations by the Planning Commission. This is a step which is long overdue and in the context of the present phase of Union-State relationship cannot brook further postponement.

DISTRIBUTION OF CAPITAL RESOURCES AMONG CENTRE AND STATES

If the Constitution is heavily weighted towards the Centre in the matter of distribution of revenue receipts, it is even more so with regard to capital resources. As already indicated, the powers of borrowing by the States are severely limited by restrictions imposed by the Central Government. The Central Government has access to the most fruitful sources of capital, like foreign aid, the resources available in the banking system and, of course, deficit financing. While much thought and effort has gone into the working of the finance commissions in their role of apportioning revenue resources, what has been lost sight of is the absence of similar arrangements for the equitable distribution of the capital resources available at the national level among the States. Bulk of the flow of resources from the Union to the States is through the mechanism of the plan, either as Central assistance for the State plan or as assistance for Centrally-sponsored schemes. Of late, there has also been an increase in the flow of institutional resources with the Industrial Development Bank of India, Agricultural Refinance Corporation, Life Insurance Corporation of India, and the Commercial banks to the States. The present arrangements are most unsatisfactory. They result in a larger flow of such capital resources to the advanced States which have already developed not only the infrastructure to absorb them but also the necessary expertise and experience in banking procedures to enable ready access to such sources. In contrast, the flow of resources to the backward States which are in dire need of investments has been insignificant. This has stood in the way of the development of infrastructure, and poor progress of industrialisation. In the matter of open market borrowings too, the lion's share goes to the forward States. Again, under Central assistance too, loans advanced to the States, as has already been pointed out, is not scientifically correlated to the relative needs of the States. Incremental development is largely enabled only through investments of capital nature and while the Finance Commission merely touches the fringe of the problem of allocating some additional revenue resources on the basis of backwardness, any serious efforts to surmount the problem will have to be in the direction of providing a device through which adequate capital resources can flow to the backward States. It is to subserve this objective that there is a felt need to set up a national organisation to determine allocations of capital resources between the Union and the States and between the States *inter se*. A suggestion has already been made

that some sort of autonomous banking organisation could be set up, which would regulate the the flow of credit to the States. This is indeed a welcome suggestion, because not only would it enable objectivity to be brought to bear on decisions regarding the apportionment of limited resources but also because this would enable a more careful investigation to be made of the purpose for which investments are proposed, with reference to the economic and financial criteria. Hitherto, investments have been guided almost solely with reference to the availability of resources for financing such investments, rather than the priority that should be accorded to the purpose of such investments in the national context or with reference to returns they fetch. There is, therefore, a good case for having an autonomous body independent of the Government of India to settle, on an annual basis, at least broad allocations of resources between Union and the States. A suitable relationship can be evolved between such a body, and the constitutional planning organisation suggested. What deserves to be highlighted is that is should not be left to the Union Finance Ministry to provide first for all the needs of the Union Ministries, and then arrive at a figure for Union assistance to the States on a residuary basis. This results in a scheme of higher priority in the State sector being dropped to give way to less important schemes included in the Union sector, distorting, in the process the priorities of the Plan.

CERTAIN REMEDIES FOR PRESENT ILLS

The Indian Constitution has been amended on several occasions since 1950. But it is significant to note that not a single amendment has been made to the provisions of the Constitution relating to Union-State financial relations, even though there has been a felt need for such changes. Corporation tax, for instance, would hardly have been left outside the shareable pool had only the framers of the Constitution foreseen that it would yield much more than Rs. 45 crores which it yielded when the Constitution was framed; but while there has been considerable criticism from various sources regarding the defects in the constitutional provisions, no concerted attempt has so far been made to suggest suitable amendments. The Government of India is naturally averse to any changes in favour of States. The initiative in the matter cannot, therefore, be expected to be taken by the Government of India. The State Governments have been raising their voice in protest over the step-motherly treatment given to them under the Constitution. But no State Government has so far made concrete suggestions on how comprehensive amendments to the Constitution should be made. As pointed out earlier, the finance commissions have not been asked to comment on changes necessary in the consti-

tutional provisions, even though the Sarkar Committee, which examined the financial provisions of the Constitution, felt it desirable that the Finance Commission should make such a review. The constitutional provisions have resulted in injustice among the States *inter se* and have reduced the States more or less to the status of supplicants to the Government of India. There is, therefore, an urgent need for a high-powered expert body to go into the working of the financial provisions of the Constitution.

We shall now briefly discuss the broad directions in which the constitutional provisions may be recast. There may not be a *prima facie* case for enlarging the number of shareable taxes since income tax as well as excise duty, when pooled together, would yield more than adequate resources for catering to the revenue needs of the States. But at the same time, widening of the base of devolution with corresponding reduction in the size of the shareable pool would give both the Centre and the States a greater sense of participation in the taxes which are shared. On the balance, therefore, there seems to be a case for including wealth tax, gift tax as well as corporation tax in the list of taxes shareable with the States. The inclusion of these taxes will not bring about a sufficient improvement in the level of equalisation achieved when the shares are apportioned, but nevertheless a larger number of taxes with lower shares would be desirable, since it would enable some evening out of disparities arising from distribution formulae adopted, and would make for flexibility. There are strong grounds for transferring tax on agricultural incomes and estate duty on agricultural land to the Union since the States have shown that they do not have the necessary political courage to tap resources from this sector. Unless the additional incomes in this sector are siphoned off and used for financing a larger plan, the nation as a whole suffers. This is the basis for the suggestion that these fields should be transferred to the Union. This would incidentally confer the advantage of a common system of income tax being levied on agricultural and non-agricultural incomes. So far as the mode of distribution of revenue resources among the States is concerned, a more equitable sharing formula can be arrived at even within the existing constitutional provisions by widening the scope of the Finance Commission enquiry to cover the needs of the Centre as well. The present practice of the Central needs not being gone into in the same detail as the needs of the States should cease. The techniques adopted for the purpose of evaluating the needs of the States could be refined. But, as pointed out earlier, by far the most important step that would be necessary to resolve Union-State tangles would be the setting up of a constitutional body independent of the political government at the Centre to decide on all issues connected with planning as well as investment policy.

Unless these functions are taken outside the direct purview of the Government of India, planning for the States would always be on a residuary basis. An amendment to the Constitution to enable the setting up of a National Planning Organisation on the lines of an Inter-State Council with a permanent Secretariat that can well be the Planning Commission and the establishment of subsidiary planning boards at the State level, are the *sine qua non* not only for the successful implementation of planning but also for the healthy development of federalism in the country.

COMMENTS*

G. Thimmaiah

Shri J. Shivakumar has made a critical review of the Union-State Financial Relations in India. In the course of his review, he has made certain observations which appear to me arbitrary and unrealistic.

The author has maintained:

The terms of reference (of the Finance Commission) are unilaterally drafted by the Union Finance Ministry and it is common knowledge that there is no institutional arrangement by which the President makes an independent appraisal of the suggested terms of reference. An arrangement by which the States are consulted beforehand would be a step in the right direction but so far this has not been attempted (p. 129).

Theoretically, the suggestion is sound. But it ignores the reality of the situation in the country. If the States are asked to reach an agreement over the terms of reference to be made to the Finance Commission it will have to enquire into innumerable problems of federal finance and made recommendations which will be simply impossible for the present type of Finance Commission within its short duration of existence. If an attempt is made to reduce the number of terms of reference, such a process will involve time, energy and expenditure on the part of the Union Government. Further, such a process of con-

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sulting the States and persuading them to reach a consensus on the terms of reference will involve excessive delay. This is more so in the context of the changing political scene at the State level. Therefore, the suggestion, though theoretically sound is practically unrealistic and administratively cumbersome. Instead, what is required is that the Union Government itself should identify the common problems and ask the Finance Commission to examine and make recommendations to solve them. This procedure has been in practice for a long time.

The author has observed:

The hard choice before a Finance Commission is really between adoption of sound principles for the allocation of resources between the States and the Centre which do not lend themselves to equitable and uniform application when quantification is attempted and the adoption of distinctly less scientific and acceptable principles which nevertheless have the advantage of being amenable to precise and unquestioned transformation into reliable figures (p. 130).

This is a defeatist view and factually incorrect, because he has not proved (or even shown) how the adoption of sound principles do not lend themselves to quantification and fails to treat all the States uniformly and equitably. Also, he has tried to defend the arbitrary principles adopted by all the previous finance commissions on the ground that they are quantifiable. So far, the finance commissions appointed under the Constitution have not at all attempted to formulate any principles. Their principles are those of Otto Neimeyer plus their arbitrary twists and nothing more. I want to state here that I have examined this issue in detail in my book¹ and I have shown there how sound principles can be easily quantified and also that only sound principles can be equitable and can be applied uniformly to all the States. Therefore, I consider his above-quoted observation as contrary to facts.

The author states:

...Finance Commissions are compelled to take into account all additional taxation measures during the quinquennium preceding the period covered by the report. This may not have large impact on the States which are surplus but on the States which are eligi-

¹G. Thimmaiah, *An Approach to Centre-State Financial Relations in India*, Mysore, Ganga Tharanga Publishers, 1968. Beside, K. V. S. Sastry and V. V. Bhatt have also attempted to suggest quantifiable, uniform and equitable sound principles. See K.V.S. Sastry, *Federal State Fiscal Relations in India*, Bombay, Oxford University Press, 1966, and V. V. Bhatt, "On the Magnitude and Allocation of Federal Assistance to the States in India : Some Rational Criteria", *Public Finance*, Vol. XXIV, No. 4, 1969.

ble for deficit grants, this has an adverse impact. There is no incentive at all for such a State to tax because if it refrains from imposing taxes, it could pass on its burdens in due course to the national tax-payers, rather than impose levies on its own taxpayer. A possible solution for this problem is to permit States to retain, for financing their plans, receipts from additional taxation measures enforced by them for at least a period of ten years. Unless this is done, one cannot blame the States for their reluctance to levy taxes (pp. 131-32).

This statement assumes that the finance commissions have distributed in the past the grants-in-aid of States' revenues, at least partly on the basis of the tax-efforts of the States. This implicit assumption is wrong. It is true that if a State runs a deficit without raising sufficient tax revenue it may be (and, in fact, it is) entitled for higher grants from the Finance Commission. But it will have to accept a small State plan and, therefore, it will lose proportionately to that extent Central assistance for its plan. And, if the surplus State gets less revenue grants from the Finance Commission, it may defend its big plan before the Planning Commission and hence may get more Central assistance for its plan. Further, the solution suggested by Shri Shivakumar requires that the revenue from additional taxation should be allowed to be used for only plan purpose and for nothing else. This can only be a pious hope and not a practicable proposition. It creates administrative complications in the context of the fact that plan grants are commended by the Planning Commission and the revenue grants are recommended by the Finance Commission. Furthermore, it assumes that the Finance Commission must measure the potential tax-effort of each State and compare that with its actual tax-effort and thus the gap, if any, between the two should be estimated. Such a procedure will certainly enable the Finance Commission to arrive at a potential revenue gap of each State and to recommend grants to fill it, besides compelling the States to tap their tax-potentials. But, so far, no Finance Commission has attempted to do so. The Second Finance Commission tried but it simply compared the promised additional taxation targets under the First Plan with the actual realisation by the end of the plan and did not take into account even that gap while estimating the revenue gaps of the States. The later commissions have openly accepted their inability to develop any technique of finding out the relative gaps in the States' tax-efforts. Therefore, in the absence of estimates of their relative gaps in tax-efforts, mere promise that the additional tax-revenue will be allowed to be used for plan purposes, will not induce the States to exploit their tax-potentials. Because, even then the complacent States may obtain

more grants from both the Planning Commission and the Finance Commission by a simple promise of raising more revenue without keeping it up. Consequently, his solution ceases to be a solution.

Apart from this, his solution overlooks the fact that there are some States in India which cannot raise additional taxation substantially owing to their general poverty. These have got to be looked after by both—the Finance Commission and the Planning Commission. If the Finance Commission devises a method of finding out the relative gaps in tax-efforts of the States, then such gaps will be less in the case of poorer States and hence they will be entitled for more grants-in-aid of their revenues.

Shri Shivakumar has maintained :

It will, therefore, be pointless in the present circumstances for a Finance Commission to take upto itself the task of eliminating regional disparities. It should instead concentrate on the absolute needs of the States with reference to the levels already reached and leave it to the mechanism of the Plans to eliminate regional disparities (p. 133).

This observation lacks clear understanding of the problem of growth and the problem of regional inequalities and the relative roles of the planning and the finance commissions in the context of these two problems. After examining this issue, I have suggested in my book, referred to earlier, that the Planning Commission should try to allocate efficiently scarce resources in the country with a view mainly to maximising output and the Finance Commission should try to enable the poorer States to save financial resources on their revenue accounts and divert them for development purposes. Thus, it is the Finance Commission which can assess the regional disparities in economic and social services and thereby enable the Planning Commission to use some portion of the Plan grants for reducing regional disparities. This means that the problem of regional disparities has got to be tackled by both the Planning Commission and the Finance Commission. But Shri Shivakumar has suggested that it should be the task of the Planning Commission alone. The Planning Commission cannot afford to tackle it alone at this stage of our economic development even if the political circumstances compel it. But in that case, it will not succeed in both the fields of maximising growth and reducing regional inequalities.

The author has recommended :

...that Article 263 of the Constitution visualises the setting up of an Inter-State Council and it should be possible, if necessary

through a minor amendment to the Constitutional provision, to set up a national body for planning of which the Planning Commission can be an executive organ. Such a set-up would ensure that the States participate in crucial decisions regarding the resources available for the plan, the size of the plan and the sectoral allocations (p. 136).

And he has maintained that :

...once a constitutional status is accorded to the Planning Commission and the Government of India's hold over the Commission weakened, a measure of acceptability will immediately be accorded to any recommendations by the Planning Commission (p. 137-38).

The above mentioned recommendation and its accompanying optimism are not at all new. Besides, this very old recommendation has been all along considered dangerous for India and it is more so today when the political turmoil is weakening the Planning Commission and its grip over the States' policies. Many experts on administration and economic planning, notably A. H. Hanson², S. R. Sen³ and Albert Waterston⁴, have studied this issue in detail, both in theory and in practice, and they have come to the conclusion, on the lessons of experience of many countries of the world, that the present position and set-up of the Planning Commission are the best for the conditions (administrative, economic and political) obtaining in India. Therefore, Shri Shivakumar's recommendation is a stereotype textbook suggestion which ignores the reality of the conditions in India and is totally blind to the experiences of other countries.

After criticising rightly the biased and imperfect process of transferring the capital resources from the Centre to the States through the Planning Commission, the author has seconded another already old suggestion to create an "...autonomous banking organisation... which would regulate the flow of credit to the States. This is indeed

²(a) A. H. Hanson, *The Process of Planning*, London, Oxford University Press, 1966.

(b) A. H. Hanson, "The Administration of Planning", *The Indian Journal of Public Administration*, Vol. IX, No. 2 (April June), 1963.

(c) A. H. Hanson, "Power Shifts, and Regional Balances", in Paul Streeten and Michael Lipton (eds.), *The Crisis of Indian Planning*, London, Oxford University Press, 1968.

³S. R. Sen, "The Planning Machinery in India", *The Indian Journal of Public Administration*, Vol. VII, No. 3 (July-September), 1961.

⁴Albert Waterston, *Development Planning: Lessons of Experience*, Baltimore, The Johns Hopkins Press, 1965.

a welcome suggestion, because not only would it enable objectivity to be brought to bear on decisions regarding the apportionment of limited resources but also because this would enable a more careful investigation to be made of the purpose for which investments are proposed" (p. 139). I have examined this issue also in greater detail in my book referred to earlier and elsewhere.⁵ The proposal, that a National Development Bank (NDB) be established for the purpose of distributing Central assistance, was first made by the Study Team on Financial Administration (*Venkatappaiah Study Teams*) set up by the Administrative Reforms Commission. Later, it was supported by *D. T. Lakdawala*, *Khatkhate* and *V. V. Bhatt*. After a careful study of their proposals, I have come to the conclusion that in an attempt to achieve efficiency in utilisation of Central assistance, the proposals might halt economic progress at the State level for want of funds besides rendering the Central control over State policies ineffective. Further, the transfer of this part of the resource-transferring function to the proposed NDB would render overall economic planning ineffective by weakening the position of the Planning Commission. The transfer of this responsibility may further create the problem of coordination between the functions of the Planning Commission and those of the NDB. It may also create additional problem of coordination between the NDB and the Reserve Bank of India (RBI). Lack of required coordination between these two institutions, particularly the loan policies of the proposed NDB and the monetary policy of the RBI, would create many other economic problems in the country and would weaken the position of the RBI in the field of monetary management. Finally, the establishment of a NDB would involve additional burden of annual expenditure for the Union Government which will be a waste in the context of already existing innumerable banking and financial institutions in the public sector besides a permanent Planning Commission and a quinquennial Finance Commission.

The above quoted observations and recommendations of Shri Shivakumar on the problems of Union-State financial relations in India are, therefore, not well-conceived and are not based on a detailed dispassionate study, and hence, they are arbitrary.

⁵(a) G. Thimmaiah, "Planning and Federation", *Eastern Economist*, August 29, 1969.

(b) G. Thimmaiah, "Does India Need a National Loan Council?", *Capital*, July 17, 1969.

(c) G. Thimmaiah, "Centre-State Financial Relations: A Comment", *Economic and Political Weekly*, October, 17, 1970.

AUTHOR'S REJOINDER *

Shri G. Thimmaiah has made certain comments on my article. My first observation, which Shri Thimmaiah has referred to, is the following.

The terms of reference (of the Finance Commission) are unilaterally drafted by the Union Finance Ministry and it is common knowledge that there is no institutional arrangement by which the President makes an independent appraisal of the suggested terms of reference. An arrangement by which the States are consulted beforehand would be a step in the right direction but so far this has not been attempted (p. 129).

I am grateful to Shri Thimmaiah for having conceded that this suggestion is theoretically sound. But he feels that it ignores the reality of the situation obtaining in the country and opines that if the States are asked to reach an agreement over the terms of reference, it will be necessary for the Finance Commission to enquire into innumerable problems of federal finance. He also feels that if an attempt is made to provide an opportunity, such a process will involve time and expenditure on the part of the Union Government. He adds that the process of consulting States and persuading them to reach a consensus on the terms of reference will involve excessive delay. His view is, therefore, that the Union Government should itself identify the common problems and ask the Finance Commission to recommend suggestions to solve them, as it has been doing so far.

All that I have suggested is that the States should be consulted and the views of the States should be placed before the President when he finalises the suggested terms of reference. A time limit can always be set for the States to give their views and thereby delay can be avoided. An agreement is not contemplated, nor even a consensus. What I have suggested is an institutional arrangement by which the President is apprised of the views of the States. It is, therefore, obvious that Shri Thimmaiah's fears are unwarranted. His suggestion that the Union Government itself can identify the common problems is unsound because the Union Government, being one of the parties to the award, would naturally take a somewhat prejudiced view on the valid claims of the States. It is because the Finance Commission's terms of reference have so far been drafted by the Union Government (to the

*From *Indian Journal of Public Administration*, Vol. XVIII, No. 1, 1972, pp. 106-9.

disadvantage of the States) that some injustice has been done to the States. It is in this context that I have ventured to suggest that the States should be consulted while drafting the terms of reference. In my article, I had given the illustration that the Union Government made it obligatory for the Fifth Finance Commission to reckon yields of taxation at levels reached by a State in the year 1968-69 while computing the deficit. Had only an opportunity been given to the State Governments to express their views on the terms of reference, the grave injustice done to the States which had mobilised resources for the original Fourth Plan could have been avoided. My next observation, in the article to which Shri Thimmaiah has referred, is the following:

The hard choice before a Finance Commission is really between adoption of sound principles for the allocation of resources between the States and the Centre which do not lend themselves to equitable and uniform application when quantification is attempted and the adoption of distinctly less scientific and acceptable principles which nevertheless have the advantage of being amenable to precise and unquestioned transformation into reliable figures (p. 130).

Shri Thimmaiah claims that he has rebutted this inference by showing in his book how sound principles can easily be quantified. I have not had the fortune of coming across this book but I have first hand experience of unsuccessful attempts made to quantify sound principles and my observations are based on such experiences. A simple example will illustrate. Per capita levels of expenditure on education may be a sound basis for reckoning what is reasonable to expect from State to spend on education. But while computing this it is almost impossible to get reliable figures, because expenditure is incurred not only by the Governments directly but also by local bodies and innumerable private institutions. Practical difficulties arise while culling out figures. Reliable statistical data so necessary for accurate quantification of sound principles is just not available in our country. The very fact that the Finance Commissions, whose recommendations have got, to be practical, have so far not attempted this, shows that Shri Thimmaiah's suggestions are suitable only for text books.

My third observation, to which Shri Thimmaiah has taken exception, is the following:

...Finance Commissions are compelled to take into account all additional taxation measures during the quinquennium preceding the period covered by the report. This may not have large impact

on the States which are surplus but on the States which are eligible for deficit grants, this has an adverse impact. There is no incentive at all for such a State to tax because if it refrains from imposing taxes, it could pass on its burdens in due course to the national tax payers, rather than impose levies on its own tax-payer. A possible solution for this problem is to permit States to retain, for financing their plans, receipts from additional taxation measures enforced by them for at least a period of ten years. Unless this is done, one cannot blame the States for their reluctance to levy Taxes (pp. 131-32).

In rebutting this statement Shri Thimmaiah claims that a State which is reluctant to raise tax will have to accept a small State Plan and therefore, it will lose proportionately, to that extent, Central assistance for its plan. I would like to make it clear, at this point, that there is at present no relationship between the quantum of Central assistance and the size of the State plan. Central assistance is distributed according to certain norms and the size of a State plan does not figure as one of these norms. Shri Thimmaiah also objects to the use of a part of the proceeds of additional taxation for the plan and claims that it would create administrative complications in view of the fact that plan grants are recommended by the Planning Commission and revenue grants are recommended by the Finance Commission. Here again, Shri Thimmaiah is apparently labouring under the illusion that the plan revenue component is fully met by plan grants from the Planning Commission and has ignored the fact that the balance from current revenue is a source of financing State plans. He further feels that my suggestion assumes that the Finance Commission must measure the potential tax effort of each State, compare it with the actual tax effort and estimate the gap between the two. He claims that this is impracticable. I agree with him that it is so, but it was never my suggestion that this should be done. All that I suggested was that the additional taxation actually imposed by a State, which can be computed easily, may be left out of account while calculating the non-plan deficit of the State, so that, for a deficit State, it could be used to finance plan expenditure, enable a bigger plan to take shape and thereby reward a State which has mobilised resources. His comments, therefore, are based on an incorrect understanding of not only what I have said but also the procedures obtaining in our country.

The next observation of mine, to which Shri Thimmaiah has referred, is the following:

It will, therefore, be pointless in the present circumstances for a Finance Commission to take upon itself the task of eliminating

regional disparities. It should instead concentrate on the absolute needs of the States with reference to the levels already reached and leave it to the mechanism of the Plans to eliminate regional disparities (p. 133).

Shri Thimmaiah alleges that this observation lacks a clear understanding of the problem of growth and the problem of regional inequalities and the relative roles of the Planning Commission and the Finance Commission. He derives support from certain observations made in his book. He apparently relies on his views that the Finance Commission should try to enable the weaker States to save financial resources on the revenue account and divert these for developmental purposes, and the Planning Commission should try efficiently to allocate scarce resources in the country with a view to maximising output. The fact that this view is totally contrary to my view does not make it the correct view. I believe that regional disparities can be eliminated effectively only through the mechanism of the plans, but I concede that various different views are possible on this rather controversial subject.

The more observations of mine, to which Shri Thimmaiah has referred, are the following:

...that Article 263 of the Constitution visualises the setting up of an Inter-State Council and it should be possible, if necessary through a minor amendment to the constitutional provisions to set up a national body for planning of which the Planning Commission can be an executive organ. Such a set-up would ensure that the States participate in crucial decisions regarding the resources available for the Plan, the size of the Plan and the sectoral allocations. (p. 136) and ...once a constitutional status is accorded to the Planning Commission and the Government of India's hold over the Commission weakened, a measure of acceptability will immediately be accorded to any recommendation by the Planning Commission (pp. 137-38).

One of the points raised by Shri Thimmaiah is that this suggestion is not new. I never claimed that the suggestion was original. In fact, there is little scope for originality in the much exploited field of Centre-State financial relations. His second point is that this is a stereotyped textbook suggestion and blind to the experience of other countries. He has quoted certain authorities for this conclusion. They represent a point of view which differs from mine. It is always possible to quote authorities in favour of or against a particular view point. The main argument against the suggestion which I have men-

tioned in my article is that the implementation of the suggestion would weaken the Planning Commission's grip over the States. No harm will result if this happens; in fact much good will result if planning assumes a federal character and the States have a greater say in the formulation and implementations of plans.

Shri Thimmaiah has also commented on the reference in my article to an autonomous organisation which would regulate flow of credit to the States. He claims that it is an old suggestion. In my article I have said "a suggestion has already been made" implying thereby that the suggestion is not new. Shri Thimmaiah is, therefore, incorrect in presuming that I claim that the suggestion is original. He once again urges acceptance of what he has stated in his book. The conclusion in his book is apparently that the setting up of such an organisation would halt the economic progress of the States, render Central control over State Policies ineffective, and weaken the Planning Commission, and also create coordination problems. The correctness of those conclusions will depend upon the arguments he has adduced to build up his case which, unfortunately, I have not had an opportunity of studying. But I must concede that these criticisms do have force, but the advantages accruing from the setting up of such an agency would, in my view, outweigh these disadvantages. But Shri Thimmaiah's objection to the setting up of an autonomous organisation, because it would mean additional expenditure the Union Government, is, at best, amusing. Any one with a sense of proportion would realise that the expenditure involved would be trivial in absolute terms compared to the funds handled and the benefits accruing.

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Some Neglected Aspects of the Finance Commission*

G. Thimmaiah

THE INDIAN Constitution has provided for a Finance Commission under Article 280, to recommend mainly the financial transfers from the Union Government to the States with a view to reducing vertical as well as horizontal federal fiscal imbalances.¹ This constitutional provision requires that the President should appoint the Finance Commission within two years from the commencement of the Constitution and thereafter once in every five years or even earlier, if necessary. Article 280 also specifies broadly the terms of reference of the Finance Commission under clause 3(a) and 3(b), and leaves only the terms of reference under 3(c)² to be determined by the President depending upon the need for such reference. Further, Article 280 has fixed the total strength of the Finance Commission by specifying that it should consist of a chairman and four members other than the chairman.

However, Article 280 has left to the parliament the power to prescribe the qualifications of the chairman and other members of the Finance Commission as also the procedures for their appointment and for the work of the Finance Commission. Accordingly, the parliament has enacted a legislation, i.e., *The Finance Commission (Miscellaneous Provisions) Act* of 1951. So far six Finance Commissions have been appointed by the President of India within a period of twenty-two years.

An attempt is made in this paper to analyse the terms of reference, personnel and procedures of these six Finance Commissions with a view to assessing their influence on the success or failure of the Finance Commission in this country. A plethora of literature—both analytical

*From *Indian Journal of Public Administration*, Vol. XX, No. 1, 1974, pp. 15-31.

¹For further details about these terms, see author's *Studies in Federal Finance*, Bangalore, (1973), Padma Prakashan; Ch. II.

²Please see footnote 4.

and descriptive—exists in India on the Finance Commission. But there has been no attempt to study the terms of reference and personnel of the Finance Commission with a view to examining their bearing on the success or failure of the Finance Commission.

The success or failure of the Finance Commission depends upon a variety of factors of which I consider the following as significant : (1) rationality of its approach and methodology, (2) consistency of its approach within a fair degree of flexibility, and (3) objectivity of its judgment and recommendations. These significant factors are in turn influenced, to a large extent, by (i) the terms of reference of the commission, (ii) relevant expertise and experience of the personnel manning the commission, (iii) the extent of time at the disposal of the commission as well as the time devoted by its personnel to the commission's work, (iv) the procedures adopted by the commission in its work within the constitutional and legal frameworks, (v) the facilities provided to the commission, particularly the supply of required data and their analysis, and (vi) the cooperation extended to the commission by the Union and State Governments.

I have examined the consequences of the first set of the three significant factors on the work of the Finance Commission elsewhere,³ and I have come to the conclusion that it is yet to succeed in achieving its intended objectives in the Indian Federation. In this paper, I propose to examine the share, if any, of the second set of six factors with an emphasis on only the first four of these.

TERMS OF REFERENCE OF THE FINANCE COMMISSION

The Constitution has laid down the following broad terms of reference, under clause (3) of Article 280, of the Finance Commission:

It shall be the duty of the Finance Commission to make recommendations to the President, as to :

- (a) the distribution between the union and the States of the net proceeds of taxes which are to be, or may be divided between them under this chapter and the allocation between the States of the respective shares of such proceeds;
- (b) the principles which should govern the grants-in-aid of the revenues of the States out of the consolidated Fund of India;
- (c) the continuance or modification of the terms of any agreement entered into by the Government of India with the

³See author's *An Approach to Centre-State Financial Relations in India*, Mysore, Ganga Tharanga Publishers, 1968.

government of any State specified in Part 'B' of the first schedule under clause (i) of Article 278 or under Article 306;⁴ and

- (d) any other matter referred to the Commission by the President in the interest of sound finance.

Thus, the terms of reference are broadly fixed by the Constitution while at the same time an element of flexibility is built into these terms of reference particularly under 3(d) which is now 3(c). This has prevented any arbitrary determination of the terms of reference of the Finance Commission by a strong Union Government disregarding the financial interests of the States. Even this safeguard and flexibility in regard to the terms of reference has not satisfied some administrators in this country. For instance, Mr. J. Shivakumar has maintained that "the terms of reference (of the Finance Commission) are unilaterally drafted by the Union Finance Ministry and it is common knowledge that there is no institutional arrangement by which the President makes an independent appraisal of the suggested terms of reference. An arrangement by which the States are consulted beforehand would be a step in the right direction but so far this has not been attempted."⁵

It may not be out of context to mention here that the claimant States are not consulted by the Commonwealth Government in Australia for deciding the terms of reference of the Commonwealth Grants Commission, a body which is similar to the Indian Finance Commission in some respects. The terms of reference of the Australian Grants Commission are almost uniform consistently except for the *number* of claimant States whose requests for grants have to be examined each year. Similarly, the terms of reference of the Indian Finance Commission have been enumerated in the Constitution leaving some scope for additional matters to be referred to the successive Finance Commissions, if necessary. The first difficulty in determining the terms of reference of the Finance Commission in consultation with the States is that the number of States is fairly big and this makes the administrative process of ascertaining their views difficult and time-consuming. Secondly, in view of differing priorities which different States may attach to the common federal financial problems, it would be difficult to arrive at a consensus

⁴This original clause 3(c) was deleted from Article 280 of the Constitution by the seventh amendment of the Constitution in 1956, and therefore, the original clause 3(d) has become at present clause (c).

⁵"Union-State Financial Relations", *The Indian Journal of Public Administration*, Vol. XVI, No. 2 (April-June) 1970, p. 207. See my comments on this article in the same *Journal* (April-June) 1972.

within a reasonable time devoted for completing the process of finalising the terms of reference. Thirdly, if the purpose is only to ascertain the views of the States on the additional terms of reference and not necessarily to refer them to the Finance Commission, then there is no need for performing that ceremony. If on the other hand the purpose is to include the ascertained views in the terms of reference, it is simply not practicable to arrive always at a consensus and moreover, the Finance Commission will not be able to do justice to too many additional terms of reference within a short period of about one year. Finally, if the Union Government tries to ascertain the views of the States on certain terms of reference which are relevant from the point of view of sound finance of the country, but which would adversely affect some States, they will be opposed by the States. I may mention here the problem of States' unauthorised overdrafts which was referred to the Fifth Finance Commission. Many States would have opposed its reference had they been consulted.

Thus the terms of reference of the six finance commissions have been determined by the Union Government within the framework suggested in the Constitution and according to the sound financial requirements of the country. The First Finance Commission was asked to recommend a share in the income tax, if necessary, a share in the Union excise duties and the principles on the basis of which these shares should be distributed among the States. Secondly, the Commission was asked to suggest any modifications in the revenue gap grants provided to the former part 'B' States, and grants *in lieu* of a share in the yield from export duties to the former jute growing States. And finally, the Commission was asked to recommend grants-in-aid to be paid to the States under Article 275. By the time the Second Finance Commission was appointed, some new terms had emerged under clause 3(a) of Article 280. In addition to a share in income tax and Union excise duties, the Second Finance Commission was asked to recommend the principles of distributing the net yield from certain taxes levied under Article 269 such as estate duty, and tax on railway fares, which have to be levied and collected by the Union Government but the proceeds of which should be made over to the States. Besides, the Commission was asked to recommend the basis of distributing the net yield from additional Union excise duties under clause 3(a) of Article 280. The Commission was of course asked to recommend the grants-in-aid under Article 275, under clause 3(b) of Article 280. Finally, under clause 3(c) an additional term of reference was made in regard to the methods of modifying the payment of interest on Union loans to the States and terms of repayment of these loans to the Union Government.

Ever since, all these terms of reference under clauses 3(a) and 3(b) have been made regularly to all the successive finance commissions. However, in regard to the additional terms of reference, there has not been any consistency for obvious reasons. The Third Finance Commission was not asked to examine any additional matter. But the Fourth Finance Commission was asked to examine the desirability of using the States' share of estate duty for the repayment of the Union loans by the States, to estimate any additional burden of debt servicing expenditure that would devolve on the States, and also to examine the combined incidence of sales tax and Union excise duties on production and consumption. Perhaps, the Fifth Finance Commission had to bear the brunt of the burden of additional terms of reference. It was asked to recommend ways and means of discouraging the States' unauthorised overdrafts, the scope for exploiting revenue sources enumerated under Article 269, and finally, the scope for exploiting the States' sources of revenue by the States. The Sixth Finance Commission was asked to examine the States' debt position *vis-a-vis* their non-plan capital requirements, the method of consolidating the Union loans to the States, and the case for establishing a national relief fund by making both the Union and the States contribute some proportions of their revenues.

The following broad conclusions emerge from the foregoing review of the terms of reference of the six finance commissions: (1) the number of regular terms of reference has been increasing steadily, (2) number of additional terms of reference is not only increasing but also becoming a *regular feature*, and (3) of these additional terms of reference, the problem of States' indebtedness to the Union Government is being repeatedly referred to the Finance Commission.

Apart from these broad conclusions, there are certain specific aspects of the terms of reference which need some emphasis here. One such aspect is the controversy in regard to the bifurcation of grants under Article 275 as revenue grants and those under Article 282 as capital grants. In India, grants-in-aid under Article 275 have come to be provided on the recommendations of the Finance Commission. Besides, the grants-in-aid under Article 275 have been confined to revenue budgets of the States only, though these may be provided for both revenue and capital budget requirements of the States under the Constitution. Thus the grant-in-aid under Article 275 have been made only for meeting mostly, though not entirely, the non-plan budgetary gaps of the States on their revenue account, whereas grants under Article 282 have been made for plan requirements of the States mostly, though not entirely, for their capital budgetary needs. This procedure has angered the States because the plan grants have grown both in absolute and relative terms as compared to the non-plan

grants in the total financial transfers from the Union Government to the States. Besides, the plan grants have been provided through various cumbersome procedures as compared to the once for all fixation of non-plan revenue grants for five years mainly on the basis of the States' revenue needs.

This bifurcation has displeased the finance commissions because they did not like all the capital grants being provided outside their purview as it limited their scope of work and also created the problem of coordinating their assessment of the financial needs of the States and recommendations with those of the Planning Commission. Besides, they have also objected to this sort of narrowing down of the scope of a body like the Finance Commission which is a statutory body by broadening the scope of the Planning Commission which is not statutory. Perhaps, this opposition to the present bifurcation of grants into non-plan revenue grants and capital plan grants through the terms of reference of the Finance Commission would not have emerged, had it been done right from the beginning. Unfortunately, this was not done. For instance, the First and Second Finance Commissions included plan requirements of the States while recommending grant under Article 275. In fact, the Second Finance Commission was specifically asked through its terms of reference to take into account the financial requirements of the States for the Second Five Year Plan. Further, the First Finance Commission recommended special grants (essentially in the nature of plan grants) for the development of primary education which was accepted and implemented without any kind of fuss. But the Union Government rushed to a clearcut thinking on the needed bifurcation only when the Third Finance Commission recommended not only special grants for the development of roads in some poorer States but also grants for meeting 75 per cent of plan component on the revenue budgets of the States. Here again, the mistake was with the Union Government which asked the Third Finance Commission through its terms of reference to take into account the financial requirements of the States for the Third Five Year Plan while recommending grants-in-aid. But when the Commission used this term of reference to widen the scope of its recommendations in regard to grants-in-aid under Article 275, it was resented by the Union Government on the ground that it was outside the purview of the Finance Commission. Accordingly, these recommendations were not accepted though in effect they were implemented in a modified way. Fearing such rejection, the Fourth and the Fifth Finance Commissions did not venture to go beyond their terms of reference in regard to grants-in aid which was confined to revenue grants under Article 275 excluding the requirements for five year plans of the States. But even this bifurcation seems to

have lost its importance in the terms of reference to the Sixth Finance Commission which was asked to estimate the non-plan capital requirements of the States as also to take into account, while determining the grants-in-aid under Article 275, the scheme and extent of plan assistance provided to the States on recommendations of the Planning Commission. This is sufficient evidence to prove the inconsistency of the policy of the Union Government in regard to the demarcation of the Finance Commission and the Planning Commission in the field of Union grants to the States. Thus, the Government of India has not been having any clearcut idea about the relative roles of the Finance Commission and the Planning Commission as also about the grants under Article 275 and other grants under Article 282.

Yet another aspect of the terms of reference of the Finance Commission which goes to prove the foregoing conclusions has been the imprecise, loose and ambiguous wording of the terms of reference. This was so in the case of a term of reference to the Fourth Finance Commission relating to the assessment of tax efforts made by the States. Again in the case of the Sixth Finance Commission, the wording of the terms of reference in regard to grants-in-aid and the additional references is ambiguous and imprecise. This invariably creates confusion and leads to the Commission paying inadequate attention to certain matters of national importance which are important from the point of view of sound finance of the States.

Thus, the increasing number of terms of reference, failure to make a rational and consistent demarcation of the domain of the Finance Commission in the field of grants and the ambiguity in the wording of the terms of reference had all their adverse impact on the working of the Finance Commission.

PERSONNEL OF THE FINANCE COMMISSION

The Finance Commission Act of 1951 specifies the qualifications for the chairman and the members under section (3) in the following way:

The Chairman of the Commission shall be selected from among the persons who have had experience in public affairs, and the four other members shall be selected from among persons who:

- (1) are, or have been, or are qualified to be appointed as Judges of a High Court; or
- (2) have special knowledge of the Finance and accounts of the Government; or
- (3) have had wide experience in financial matters and in administration; or

- (4) have special knowledge of economics.

The qualifications prescribed for the members seem to be ideal for the purpose of the work of the Finance Commission. But the same cannot be said in regard to the chairman who should possess a wide experience in more than one field prescribed for the member. Instead, 'experience in public affairs' will only enable the Union Government to make political appointments disregarding the specialised expertise and experience required for the task. Further, even in regard to the wording of the qualifications for the members, the use of the word 'or' in between all the four prescribed qualifications implies that all the four members may be appointed from the same field of expertise and/or experience which was not the intention of the Constitution makers. Though this extreme step has not been followed so far, it enables a recalcitrant government at the Centre to do it. Therefore, it is better to replace the word 'or' by 'and' which makes the intention precise and prevents abuse of legal provisions by the Union Government.

The implications of the foregoing observations may be very well brought out by examining the qualifications/experiences of the chairmen and members of the Six Finance Commissions. Table 1 summarises qualifications/experiences of the personnel of the six finance commissions in chronological order:

Some broad conclusions emerge from this Table 1. They are: (1) by and large distinguished persons served on the six finance commissions. (2) But there has been an overdose of administrators. For instance, though all the member-secretaries were professional administrators, some persons with only political-cum-administrative experience were also appointed to the commissions. (3) The qualifications prescribed for the chairman have been used to bring in political leaders for an expert commission like the Finance Commission. (4) There has been an overdose of political leadership to the Finance Commission in the name of experience of States' finances and/or political administration. Here, the letter of law has been followed relegating the spirit of law to the background. (5) Majority of the personnel belonged to the aged group to justify the experience and, in fact, one member died of old age while serving on the commission. However, this trend seems to be slightly changing with the personnel of the Sixth Finance Commission. (6) Except in the case of the same person being appointed as the member-secretary to the First Finance Commission and member to the Second Finance Commission, the same person has never been appointed more than once either as chairman or as member for the successive commissions. (7) There has been a total exclusion of women from the Finance Commission which cannot be justified. As a consequence of all these lapses, the

TABLE 1 QUALIFICATIONS AND EXPERIENCE OF THE CHAIRMEN AND MEMBERS OF THE SIX FINANCE COMMISSIONS

<i>Finance Commission</i>	<i>Chairman Name/Experience</i>	<i>Members Name/Experience</i>
First	K. C. Neogy/ex-Member of the Union Cabinet	<ol style="list-style-type: none"> 1. V. P. Menon/Professional Administrator; (V. L. Mehta/Gandhian Leader) 2. R. Kausalendra Rao/High Court Judge 3. B. K. Madan/Economist 4. M.V. Rangachari/Professional Administrator
Second	K. Santhanam/Minister of State at the Union and ex-Lt.-Governor	<ol style="list-style-type: none"> 1. Ujjal Singh/ex-Finance Minister of Punjab 2. L. S. Misra/ex-Chief Justice of High Court 3. M. V. Rangachari/Professional Administrator 4. B. N. Ganguly/Economist
Third	A. K. Chanda/ex-Comptroller and Auditor-General	<ol style="list-style-type: none"> 1. Govinda Menon ex-Chief Minister of Kerala 2. Dwijendranath Roy/ex-High Court Judge 3. M. V. Mathur/Economist 4. G. R. Kamat/Professional Administrator
Fourth	P. V. Rajamannar/ ex-Chief Justice of High Court	<ol style="list-style-type: none"> 1. Mohanlal Gautam/ex-Minister of UP 2. D. G. Karve/ex-Deputy Governor of Reserve Bank of India 3. Bhabatosh Datta/Economist and Educationist 4. P. C. Mathews/Professional Administrator
Fifth	Mahavir Tyagi/ex-Union Minister	<ol style="list-style-type: none"> 1. P.C. Bhattacharya/ex-Governor of Reserve Bank of India (G. Swaminathan/Professional Administrator) 2. M. Seshachalapathy/ex-High Court Judge 3. D. T Lakdawala/Economist 4. V. L. Gidwani/Professional Administrator
Sixth	K. Brahmananda Reddy ex-Chief Minister of Andhra Pradesh	<ol style="list-style-type: none"> 1. Syed Sadat Abdul Masud/ex-High Court Judge; 2. B. S. Minhas/Economist 3. I. S. Gulati/Economist 4. G. Ramachandran/Professional Administrator.

SOURCE : Compiled from the Reports of the past Finance Commissions.

Finance Commission could not have the benefit of young, dynamic and able experts on the Commission. Only part of the Commission constituted the right experts, the rest being generalists and political leaders. These conclusions will be further reinforced by the analysis of the time devoted by the finance commissions for their work and also the time-nature of the personnel.

DURATION OF THE FINANCE COMMISSION AND ITS PERSONNEL

The appointment of the Finance Commission is made by an announcement of the Order of the President by the Union Ministry of Finance normally (though not always) after the Union Budget is presented to the Parliament. The Finance Commission comes into existence from the date of assuming charge of the chairman and members specified in the President's Order. The duration of the Finance Commission is also specified in the President's Order. The Commission ceases to exist as soon as it submits its report. The average duration of the Finance Commission has been about fourteen months though it varied from a minimum duration of 12 months in the case of the Third Finance Commission to a maximum duration of 16½ months in the case of the Fifth Finance Commission. Table 2 shows the details in regard to duration of each of the past six finance commissions.

TABLE 2 DURATION OF THE FINANCE COMMISSIONS

Finance Commission	Initial period of appointment		Extension of the initial period—upto	Total Duration
	From	To		
First	30 Nov. 1951	30 Nov. 1952	30 Dec. 1952	13 months
Second	1 June 1956	30 Aug. 1957	30 Sept. 1957	16 months
Third	15 Dec. 1960	14 Dec. 1961	Nil	12 months
Fourth	18 May 1964	12 Aug. 1965	Nil	15 months
Fifth	15 Mar. 1968	31 June 1969	Nil	16½ months
Sixth	28 July 1972	31 Oct. 1973	Nil	14 months

SOURCE : Compiled from the Reports of the past Finance Commissions.

The Table 2 reveals certain interesting conclusions. They are: (1) the appointment of the Finance Commission was not coordinated with the presentation of the Union Budget till the time of the Fourth Finance Commission; (2) there was no coordination between the period of implementation of the recommendations of the Third Finance Commission and the period of the Five Year Plan till the time of the Third Finance Commission. However, such coordinations have been established since then and it seems to have become a convention; (3) the interval between two finance commissions has been less than five years. In other words, whereas the Constitution stipulates

that the Finance Commission must be appointed at least once in every five years, in actual practice, it has been appointed once in every four years or so; (4) the duration of the Finance Commission has been almost stabilised; and (5) the foregoing conclusions suggest that this period of 14 months is just adequate for the work of the Finance Commission.

However, the adequacy of this time for the work of the Finance Commission depends to a large extent on the time-nature of the personnel of the Commission. In other words, the adequacy of the present duration of the Finance Commission depends on whether the Chairman and members are full-time or part-time personnel. This is presented in Table 3.

TABLE 3 TIME-NATURE OF THE PERSONNEL OF THE FINANCE COMMISSIONS

Finance Commission	Chairman		Members	
	Full Time	Part Time	Full Time	Part Time
First	Full time	—	Three only	One (V. P. Menon) (V. L. Mehta)
Second	Full time	—	Three only	One (B. N. Ganguly)
Third	—	Part time (A. K. Chanda)	Four only	—
Fourth	—	Part time (P. V. Rajamannar)	Three only	One (D. G. Karve)
Fifth	—	Part time (Mahavir Tyagi)	Three only	One (P. C. Bhattacharya) (G. Swaminathan)
Sixth	Full time	—	Two only	Two (B. S. Minhas) (I. S. Gulati)

SOURCE : Compiled from the Reports of the past Finance Commissions.

It is clear from Table 3 that all the six finance commissions did not have the benefit of whole-time personnel. This in addition to the time allowed for the Commission to do its work which has been slightly more than one year. Over and above this, the Commission is regularly *ad hoc* in the sense that as soon as it submits its report it ceases to exist till the next Commission is appointed. This means the Commission will not get the benefit of continuous service of the expert members.⁶

⁶Dr. P. D. Ojha has maintained that "Although it has been provided that the members can be reappointed by the President, except in one solitary instance already mentioned, there has been no reappointment of commissioners. Hence the continuity and benefit of the experience of commissioners has been lost: the commissioners in the light of their own norm and judgment have been denied the opportunity in successive commissions to assess the efficacy of their recommendations. The result has been an *ad hoc* approach to such an important problem of Centre-State financial relations. "Centre-State Finance Relations in India", in *Economic and Social Development: Essays in honour of Dr. C. D. Deshmukh*, (Ed.) S. L. N. Simha, Vora & Co., Ltd., (Bombay : 1972), p. 162,

One may defend this on the ground that new personnel will bring new expertise and experience to the Commission to meet the new challenges hrown up by the constantly changing financial as well as political relations between the Union and the States. This is really necessary and hence the present practice is desirable, if not ideal. But on no account can we afford to have part-time chairman and members. No wonder then, the finance commissions have failed to do justice to their assigned tasks in India. They could not do better than copy the approach and methodology used by Otto Niemeyer for a colonial economy and fit the recent relevant budgetary data into it to produce a report.

This failure would suggest that there should be a permanent Finance Commission. Such a suggestion has been advanced by Professors R. N. Bhargava, D. T. Lakdawala, K. V. S. Sastry and Dr. V. V. Bhat.⁷ However, in the context of a permanent Planning Commission, a permanent Finance Commission becomes unnecessary if its personnel is made wholetime. Otherwise, in the context of the increasing number of States, part-time personnel cannot do justice to the task assigned to the Finance Commission in India.

PROCEDURES OF THE FINANCE COMMISSION

Soon after the announcement of the constitution of the Finance Commission by the Government of India, the personnel assumes charge and decides the phasing of the work of the Commission. First, the Finance Commission addresses letters to the State Government asking them to submit estimates of their normal revenue expenditures and amounts of revenue over the next five years. After receiving such estimates, the Commission scrutinises the reliability of these estimates and summons the concerned officers from the States to Delhi for seeking clarifications. After such clarification, the Commission makes these estimates comparable among the States by eliminating abnormal and unusual items. This is the first stage of the Commission's work.

Next, the Commission tours all the States visiting mostly the capitals of the States. These visits are intended to hear the case of each State for financial assistance. Normally, the Commission hears the chief minister and the finance minister of each State along with their aides. Each State submits a memorandum making out its case invariably for more financial assistance. Normally, these hearings are held *in camera* though they receive press publicity through press releases. Besides these, the Commission can and usually does receive memoranda from individuals and associations and also hears them.

⁷I have examined their suggestion in detail elsewhere. See *Studies in Federal Finance*, Bangalore 1973, Padma Prakashan, Chs. I and IV,

The Commission enjoys the position of a civil court under the Finance Commission Act of 1951 to summon witnesses, records and information for its work. But so far, it has not used these powers to summon private individuals and associations. There has been a spontaneous response to the press release of the Commission about meeting the interested persons and receiving memoranda.

After completing the second stage of its work which is time-consuming and arduous in a country of twenty-one States and millions of experts, the Commission meets in Delhi to prepare and finalise its report. It is very difficult to know from the reports of the Commission whether the Commission decides its approach and methodology before or after meeting the States' representatives. The past work of the six finance commissions suggests that these are mostly decided before and the final structure is evolved after hearing the States' representatives, individuals and associations.

After these procedures, the Commission submits its report to the President, normally (at least in the recent past), some months earlier than the month in which the Union Budget is presented to the Parliament. The President recommends its consideration for implementation by the Union cabinet. The cabinet, on the advice of the Union ministry of finance, decides the acceptance or otherwise of the Commission's recommendations. Once they are accepted, they will be incorporated into the Union budget for implementation after placing the report before the parliament.

Certain anomalies may be noticed in the procedure of the Finance commission's work. First, the Finance Commission depends upon the data and information on the financial needs of the States supplied by them. These data may not be free from hidden unrealities and an attempt to secure more financial assistance, and window dressing of the financial positions of the States may not be ruled out. In spite of the repeated recommendations of the Finance Commissions to create a cell of experts to collect relevant data, analyse them in the required form and supply them to the Commissions to enable them to make an independent assessment of the financial needs of the States, it appears that desired progress has not been made in that direction. The cell was no doubt created on the recommendations of the First Finance Commission and attached to the President's Secretariat. But, later, it was found that it did not do the expected job. Then the Second Finance Commission thought that cell will function better, if it was attached to the Union finance ministry. Even the Third and Fourth Finance Commissions were disappointed to know that the cell consisted of only clerks and data provided by it were only those found in the State Budgets. I have suggested elsewhere⁸ that

⁸See author's *Studies in Federal Finance*, Bangalore, 1973, Padma Prakashan, Ch. I.

it should be reorganised with experts in economics, public finance, accountancy, law and statistics and be attached to the Planning Commission where research is a necessary requisite for policy formulation. This will also enable the Planning Commission to supervise the work of the cell in the right direction as hereafter one of the members of the Planning Commission will serve on the Finance Commission.

Secondly, though all the Commissions toured most of the States visiting their capitals, they have tried to make an on-the-spot study of the progress of the expenditure programmes financed by the Commission's recommendations. This is an important feature of the Commonwealth Grants Commission in Australia. In fact, the Commission was generous enough to permit me to accompany it in its inspection of State projects in South Australia. However, in India, such inspections are rare and they are partly discouraged by the fact that the Finance Commission is not allowed to recommend plan grants for projects and partly by their limited time to cover the increasing number of States by their formal visits. But a more important reason for not following such a procedure has been that the finance commissions have never tried to equalise the essential government and social services among the States as also to award penalty for wastage of expenditure by the States. As the finance commissions have been concerned with filling up estimated revenue gaps of the States' revenue budgets without going into the fiscal needs of the States, they have not found such an on-the-spot study rewarding. The Third Finance Commission no doubt undertook such a tour of some backward States to know first-hand the adequacy of road communications and recommended special grants for some such States for the improvement of road communications. Other than this, there was no instance of the Finance Commission visiting revenue expenditure projects for making an on-the-spot study of adequacy of any service or the mode of using the grant money. Perhaps such tours may not be necessary, if the future Commissions also follow the same outmoded methodology.

Another procedural anomaly of the Finance Commission's work has been that whenever the Commission visits the States for hearing the State Government's cases, very often all the members will not be present in the meeting. In the case of hearing individuals and associations, it becomes the onus of the chairman and the member-secretary. Other members though visiting the State at the cost of the taxpayer's money, will be busy with personal visits and other work in the State capitals. This is not only unfair but becomes all the more serious in the context of the limited time at the disposal of the Finance Commission and also in the context of part-time personnel persisting on the Finance Commission.

Finally, the finance commissions in India have not been publish-

ing (either in their Reports or elsewhere), details regarding their estimation of 'revenue gap' and 'financial (or fiscal) need' of each State. Nor have they precisely stated the indices of 'backwardness' they have used, and weights given to different factors in these indices. In this connection, Dr. P. D. Ojha has observed that the measurement of 'need' for the purpose of grants-in-aid did not remain uniform with the various Finance Commissions. Each Commission in its own way tried to define 'need'. None of the Commissions, however, published the details.⁹ In other words, the finance commissions in India have not been placing all the relevant details regarding their calculations before the public. Even the most important principles they have used to distribute financial transfers from the Union to the States have not been precisely defined. This is in contrast to the practice of the Australian Commonwealth Grants Commission which publishes all relevant details regarding its calculations. And the concept of 'fiscal need' was precisely defined in the Third Report of the Commonwealth Grants Commission in 1936 and has since been followed with suitable modifications. In fact, the Australian Commonwealth Grants Commission has been held in high esteem, partly because of this procedure of placing all its methods, estimation, assumptions and calculations before the public.

The failure of the finance commissions in India to publish such details in their Reports has led researchers to suspect that they have been trying to avoid criticism of their arbitrary assumptions, estimations, methods and calculations by hiding them from the public. Anyway, this secrecy has prevented researchers from examining the rationality, relevance and reliability of their estimations and impartiality of their recommendations.

This analysis of the personnel and procedure of the Commission suggests that these lapses have contributed to some extent to the failure of the Finance Commission in this country. This is in spite of the welcome cooperation extended to them by the Union and the State Governments in India. Therefore, it is time to acknowledge these defects, though they look trivial, and set them right preferably by incorporating necessary legal provisions in the Finance Commission's Act of 1951.

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⁹ See author's *Studies in Federal Finance*, Bangalore, 1973, Padma Prakashan, p. 148.

The Union Public Service Commission and the State Public Service Commissions in India: The Case for An Institutional Linkage*

R. B. Jain

THE CONSTITUTIONAL framework in India provides for a system of federal polity in which the relations between the Centre and State Governments cover a wide range of political and administrative activities. Unlike many other federal systems, e.g., the United States of America, Australia and Switzerland, where the usual constitutional provisions clearly delimit the roles of the various governmental organs within the levels of their respective governments, the Indian system, in contrast, specifically mentions certain institutions and functionaries having an impact on the quality of the administrative set-up in the country as a whole irrespective of their locations either at the Centre or at the State levels or at both. In a country where the need for a national policy on administration is widely accepted more than ever before, it is axiomatic that such a policy should not only set up national standards and patterns for efficient administration in various functional and policy areas at the two levels of governments but that it should also cover such institutions towards which a uniform and rationally accepted approach is nonetheless desirable for an overall administrative development. Apart from a number of areas, where a plea for such an approach has been repeatedly made, none has been so crucially important—yet neglected—as has been the sphere of the operation of the public service commissions. Although the Constitution provides for the establishment of such institutions both at the Centre and the State levels, the absence of a national uniform

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policy on the standards of their performance has led to their functioning with varying degrees of success and effectiveness in different States. The strengthening of the administrative recruitment and socialisation functions in a polity within the compass of a national framework are of vital importance, if the personnel of the requisite calibre and competence are to be secured for achievements of the desired socio-economic goals. This paper is an attempt towards an analysis of the existing relationship pattern (or the lack of it?) between the Union Public Service Commission (UPSC) and the State Public Service Commissions (SPSC) in India with a view to suggest a strategy for suitable linkages for the evolution of a rational and uniform national policy in the field of personnel administration.

THE CONSTITUTIONAL BACKGROUND

Before the enactment of the Indian Constitution in 1950, the Government of India Act of 1935 provided for a public service commission for the federal government and a public service commission for each province.¹ It also provided for a joint commission, if any two or more provinces agreed to form one, and said that in certain contingencies the federal public service commission might also be asked to undertake in one or more provinces the responsibilities of the provincial public service commission.² With the enforcement of the Act of 1935, every province had a provincial commission and in some cases joint commissions were also set up.³ The provincial commissions became independent statutory state commissions after the republican Constitution came into force in January 1950.

Besides the UPSC in India, there are 21 other State Public Service Commissions,⁴ which enjoy the same constitutional status as that of the former.⁵ Because of the peculiar characteristics of the all-India service (which are recruited and trained by the Centre, but work both for the Centre and the States) and because of the provision for promo-

¹Government of India Act, 1935, Section 264.

²*Ibid.*, Section 264(2) (3).

³Punjab, the North-West Frontier Province and Sind, for instance, combined to constitute one public service commission; and Bihar, Orissa and the Central Provinces had one commission. The proposal for a joint commission for Assam and Bengal fell through.

⁴One for each State, Andhra Pradesh, Assam, Bihar, Gujarat, Haryana, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mysore, Nagaland, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. The State of Sikkim has very recently decided to set up a statutory Public Service Commission. See *Times of India* (New Delhi), August 29, 1976.

⁵Article 315 of the Indian Constitution, which establishes the UPSC also, prescribes for a Public Service Commission for each State of the Indian Union.

tions from the State service to the Central service, and the all-India service, and the necessity of holding the UPSC examinations at various centres in the States, contacts between the UPSC and the SPSCs are inevitable. Constitutionally speaking, however, no formal relationship exists between the UPSC and the SPSCs. Although the Constitution has a provision for a joint commission serving the needs of two or more States,⁶ in practice, no such joint commission has so far been established. The Constitution also provides that the UPSC may, if requested to do so by the Governor of a State, with the approval of the President, agree to serve all or any of the needs of the State.⁷ This provision has been made use of only recently.⁸ The UPSC has had no formal links with its counterpart in the States except in respect of certain duties such as constituting the selection committee for the purpose of considering promotion from the State service to the Central or all-India service at State headquarters,⁹ and considering representations from the service in matters arising from the reorganisation of the States in India in 1956.¹⁰

However, some kind of organisational relationship between them is essential to the evolution of a uniform standard of public service throughout the country. As matters stand today, there is not only large variation in salaries and in other conditions of service of the members of the different public service commissions but also in the public service of the different States. This variation is in turn reflected in the methods of work, procedures, and relationship of the commissions with the government.¹¹

⁶*Constitution of India*, Article 315 (2).

⁷*Constitution of India*, Article 315 (4).

⁸With the emergence of Manipur, Tripura and Meghalaya as full-fledged States with effect from January 21, 1972, the UPSC agreed, with the approval of the President, to the requests made by the Governors of these States, under the provisions of Act 315 (4) of the Constitution, to function as the Public Service Commission for these States for a period of six months with effect from January 21, 1972 or till other arrangements were made, whichever was earlier. See UPSC, *22nd Report* (1971-72), p. 1.

On further request made by the Governors of the States of Manipur and Tripura, the above arrangement was extended, with the approval of the President, for another period of three months, i.e., up to October 20, 1972 or till other arrangements were made, whichever was earlier. In respect of the States of Manipur and Tripura, separate Public Service Commissions for Meghalaya, Manipur and Tripura were set up with effect from September 14, 1972, September 27, 1972 and October 30, 1972 respectively. See UPSC, *23rd Report* (1972-73), p. 2.

⁹UPSC, *7th Report* (1956-57), p. 8.

¹⁰UPSC, *9th Report* (1958-59), p. 17.

¹¹For a detailed description of the working of State Public Service Commissions in India, See C.J. Hayes, *Report on Public Service Commissions in the Commonwealth Countries* (London, 1955), pp. 158-62. See also D.V. Rege, "The Public Service Commission—Its Powers and Functions", in G.S. Halappa (ed.), *Studies in State* (Contd. on page 170)

It is thus surprising that despite the Constitution makers' intention to make the Central Government in India stronger in comparison to the States, there was little discussion in the Constituent Assembly concerning the relationship between the Central and the State PSCs. A lone member of the Constituent Assembly, Brijeshwar Prasad (Bihar), was opposed outright to the establishment of the State PSCs. He based his case on the plea that the members of the provincial public service commissions had not been able to prevent corruption, inefficiency and nepotism in the provincial governments.¹²

PERIODICAL CONFERENCES : THE INFORMAL LINK

In the absence of such formal links, the relations between the UPSC and the SPSCs are of an informal nature inasmuch as the State Commissions help the Union Commission and *vice versa* in many areas of their functioning. Before the coming into of new Constitution, the federal public service commission had already established some unofficial contacts with the provincial public service commissions. These informal contacts consisted of periodical conferences of the chairmen of the UPSC and the State Public Service Commissions, presided over by the chairman of the UPSC. The first such conference was held in 1949 at the time when the Constituent Assembly was debating the new Constitution. The conference made several suggestions to the Constituent Assembly regarding the status of these bodies. A number of conferences have been held since the Constitution was adopted. The second conference of the chairmen and the first of the secretaries of the UPSC and the SPSCs were held simultaneously in 1953, which discussed matters of common interest and made several recommendations for the consideration of the government.¹³ The third conference held in 1958 in New Delhi discussed certain matters concerning procedures, the conditions of service of the members, methods of recruitment, and the development of sound relationships with the government. It was felt that on account of the increased tempo of recruitment for the technical services, especially as a result of the five year plans and the changes brought about by the introduction of a

(Contd. from page 169)

Administration (Dharwar, 1963), pp. 129-46. Also see B.A.V. Sharma, "Public Service Commissions in India", in S.P. Aiyar and R. Srinivasan (ed.), *Studies in Indian Democracy* (Bombay, 1965), pp. 217-56. See also C.N. Bhalerao, *Public Service Commissions in India: A Study* (Delhi, 1956). Some references may also be found in M.A. Muttalib, *The Union Public Service Commission* (Delhi 1966), and R.B. Jain, "A Comparative Study of the Union Public Service Commission in India and the United States Civil Service Commission", Ph. D. Dissertation, Indian School of International Studies, New Delhi, 1969.

¹²India, *Constituent Assembly Debates*, Vol. 9, 22 August 1949, p. 560.

¹³UPSC, *3rd Report* (1952-53), pp. 3-4 and *4th Report* (1953-54), p. 4.

welfare-state type of administration, the Commissions were confronted with new problems which would require more frequent consultations between the UPSC and the SPSCs, as well as pooling of their experience.¹⁴

However, even the most informal type of contact between the UPSC and the State Commissions by way of conferences could not be kept up on a continuous basis. At the conference of the chairmen in 1958, it was felt that it would not be practicable to hold conferences of the chairmen of all the Commissions oftener than once in two or three years. It was, therefore, suggested that the chairmen of the Commissions meet in smaller groups from time to time to discuss common problems and communicate the views expressed at such meetings to all the chairmen of the PSCs. A small conference of the chairmen of UPSC, Assam, Bihar, West Bengal, and Orissa State Public Service Commissions was held in Calcutta in 1959, and another such meeting was held at Bangalore, attended by the chairmen of Bombay and other State Commissions of Andhra Pradesh, Kerala, Madras and Mysore. The discussions in these conferences regarding procedures of recruitment, examinations, relations with educational and other institutions, and other problems relating to the functioning of the various Commissions, proved quite fruitful. These conferences were considered quite essential to enable the Commissions to discharge their functions assigned under the Constitution more efficiently and expeditiously.¹⁵ Another regional conference was held in Srinagar in June 1960. The fourth conference of the chairmen of all Public Service Commissions in the country was held in March 1961 to discuss certain problems relating to exemption regulations in various States, competitive examinations, principles of promotion, disciplinary cases, etc., and to evolve uniform standards of approach and working procedure throughout the country.¹⁶

The fifth conference of the chairman of the UPSC/SPSCs was held in 1968 after a lapse of almost seven years. The matters which came in for discussion as usual related generally to the procedures, principles, and methods of recruitment. But one of the items that came in for comment and lengthy arguments concerned the service conditions of the chairmen and members of the Commissions and other allied matters.¹⁷ This was an important move as hitherto the members seemingly felt shy of discussing their own positions and emoluments. The service conditions of the chairmen and members of the UPSC/SPSCs had indeed been far from satisfactory—the kind which would only

¹⁴UPSC, *8th Report* (1957-58), p. 2.

¹⁵See UPSC, *9th Report* (1958-59), pp. 1-2 and *10th Report* (1959-60), p. 3.

¹⁶UPSC, *11th Report* (1960-61), p. 2.

¹⁷UPSC, *19th Report* (1968-69), p. 6.

deter the best talents to accept the membership of the Commissions.

The sixth conference of the chairmen of the UPSC/SPSCs, held in New Delhi in November 1971, was a significant departure from the earlier conferences. The deliberations in the earlier conferences used to remain mostly confined : (i) to benefit mutually from each other's experience and ideas, (ii) to tackle common procedural problems, and (iii) to adopt some recommendations needing specific attention and gaps. The 1971 conference comprehensively highlighted discussions on some abnormal and peculiar situations.¹⁸ Taking a serious view of the reported harmful tendencies in the operation of the Public Service Commissions, it was felt necessary to emphasise to the Union Government the desirability of ensuring, even through constitutional amendments: (i) the enforcement of the improved service conditions proposed by the Central Government on a uniform basis statutorily (being no more left at the discretion of the State Government), (ii) adequate working conditions (staff, funds, etc.) to keep the SPSCs no more dependent on the discretion of their State Governments in respect of these essential prerequisites, and (iii) also that the matters referable to the Commission should be rarely excluded from their purview, except in unavoidable circumstances and under some broad guidelines. A summary of the conclusions arrived at in the conference was sent to the Government of India and other State Governments for comments.¹⁹

For the first time the conference also decided to formally submit these basic matters to the President and the Prime Minister through a memorandum on behalf of all the State PSCs to be elaborated and emphasised by their deputation led by the chairman of the UPSC. Accordingly, a delegation consisting of three chairmen of the SPSCs and headed by Shri R. C. S. Sarkar, the then chairman of the UPSC, besides meeting the Prime Minister, also held comprehensive discussions with the Minister for Home Affairs during November 1972. Though in the final analysis these deliberations did not seem to have produced any productive results, they did, however, lead to a better appreciation of the Commission's point of view by the Government.

The latest conference of the chairmen held in November 1974 went a step further. For the first time, perhaps, it was realised that the deliberations of the conference need not be considered a secret—not to be publicly reported. The conclusions of the deliberations of the conference were duly reported in a summary form in one of the annual reports of the UPSC.²⁰ The discussions also were not confined

¹⁸See Darbari Lal Gupta, "Too Many Executive Discretions" in *The States*, 27 April 1974, p. 14.

¹⁹See Darbari Lal Gupta, *op. cit.* See also UPSC, 23rd Report, (1972-73), p. 2.

²⁰See UPSC, 25th Report (1974-75), p. 1 and Appendix III (a).

merely to the framework of their constitutional functions and responsibilities which, nevertheless, received the greater attention of the conference. In particular the conference laid emphasis on four different aspects of their functioning : (a) the increased importance of the role of the UPSC/SPSCs in the socio-economic development of the country in providing efficient public services and the need for consequent enlargement of their activities under Art. 321 of the Constitution, (b) establishment of a national data bank for recruitment of specialists in social sciences, humanities and other technical and scientific fields, (c) creation of a new central agency to conduct a single competitive examination and training programme on a national level to enable the appointing authorities to select qualified personnel without conducting separate recruitment tests (such a step, it was argued, would reduce the widely prevalent tension and frustration among the youth and would ensure higher standards of education), and (d) the adoption of some technical and other innovations and the mechanisation of the processing of the steadily increasing number of applications for competitive examinations.²¹

THE CONFERENCE 'DEVICE' : AN ASSESSMENT

The following Table gives the frequency of the conferences of the chairmen of the UPSC/SPSCs, the secretaries and the regional meetings. In a span of 29 years of Independence, there have been only 7 conferences of the chairmen of the UPSC/SPSCs one of the secretaries of the UPSC/SPSCs and 3 regional meetings of the SPSCs.

The Informal Linkage : Frequency of Conferences*

<i>Conference Number</i>	<i>Chairmen of the UPSC/SPSCs</i>	<i>Secretaries of the UPSC/SPSCs</i>	<i>Regional Conferences of SPSCs</i>
I	1949	1953	1959 (Calcutta)
II	1953		1959 (Bangalore)
III	1958		1960 (Srinagar)
IV	1961		
V	1968		
VI	1971		
VII	1974		

Thus it is very clear that the device of a conference as a 'linkage' between the various Public Service Commissions has not been adopted

²¹See UPSC, *25th Report, op. cit.*

* As detailed in the UPSC reports.

on a regular basis. The interval of time between the second, third, fourth and fifth conferences of the chairmen of the UPSC/SPSCs has been 4, 5, 3 and 7 years respectively, while the last two conferences were held at an interval of 3 years each. The experience of the secretaries' conference seems to have been abandoned altogether and the regional conferences have also not taken place since 1960. The largest gap between the fourth and the fifth chairmen's conference has been seven years. The ministry of home affairs in one of its notes to the estimates committee had stated that this gap was because of the emergency (due to the Chinese attack) and because there was *no* immediate problem arising for discussion.²² This is a clear indication of the negative outlook on the part of both the Commissions and the Government of India towards the problems of personnel recruitment and selections. Positive personnel practices require a continuous evaluation and experimentation of new methods, procedures and techniques on a national basis. Assumption of the non-existence of any such problems only confirms the slackness and the complacency with which our PSCs have been performing their functions.

Among the various issues that came before the conferences for discussion, in general, some productive results have been obtained by sharing experiences and developing uniform conventions and procedures in certain important areas, *e.g.*, promulgation of exemption regulations; speedy disposal of a large number of applications through the adoption of mechanical devices; use of languages prescribed in the Constitution as medium of examinations; timely publication of the Commissions' reports; recognition of equivalent qualifications and equivalent procedure; acceptance of a uniform policy with regard to recruitment of candidates belonging to scheduled castes and scheduled tribes; methods of preventing abuse of power relating to temporary appointments and taking quick decisions on disciplinary cases.²³

In respect of certain vital problems relating to the organisational issues of the commissions and the service conditions of their personnel the steps taken by the seventh conference are significant. The five major issues that came in for a comprehensive discussion were : (a) the appointment of the commission members through a procedure of consultation with the UPSC and the SPSCs as the case may be, (b) salary structure of the chairmen and members of the SPSCs to be on par with that of the Chief Secretary and other heads of departments in the State Governments and availability of pension benefits for the non-official members, (c) delegation of full financial and administrative

²²India, Estimates Committee, 4th Lok Sabha, 47th Report, Ministry of Home Affairs: *Union Public Service Commission* (New Delhi, March 1968), pp. 125-26.

²³UPSC, 25th Report (1974-75), Appendix III (A), para 2.1.

powers to the commissions, (d) raising of the age limit for the retirement of the members of the State PSCs to 62 years, and (e) the abolition of the ban on the members of the UPSC/SPSCs for further employment in government after the expiry of their term under Art. 319.²⁴ Although the government has not positively reacted to some of the recommendations of these conferences and, therefore, it is somewhat difficult to make a proper assessment of their precise contribution, the very fact that the government has very recently adopted and passed a Statute Amendment Bill²⁵ for raising the retirement age of the members of the SPSCs to 62 years is a clear indication of the growing importance and necessity of such discussions at a national level to enable these institutions keep pace and adjust their working pattern with the changed socio-economic environment.

But the important reason why such conferences need to be institutionalised into a regular linkage pattern lies in their utility to think ahead for developing positive personnel practices on the basis of their pooled experience with a view to standardise these in a uniform manner throughout the country. Ironically enough, this important objective has been largely relegated into the background at the earlier conferences. Only the last conference had shown some trends of thinking in that direction. Nobody can deny that there is a need for continuous research in the field of developing adequate and valid tests for recruitment to different positions, procedures for quick disposal of applications and cutting out delays in recruitment, new methods of recruitment on a national basis, creation of a national data bank, manpower and career planning; avoiding undue frustrations arising out of UPSC/SPSCs procedures amongst the youth, and determining the attitudes, perceptions and motivations of the prospective candidates for a proper utilisation of their talents. It is here that the forum of the conferences (or its variation) may significantly contribute to the adoption of a concerted and integrated approach in the field of personnel development on a national basis. Herein lies its real *raison d'être* and the plea for its institutionalisation on a permanent basis.

THE SEARCH FOR A VIABLE LINKAGE

The problem for providing proper coordination and an institutional linkage between the UPSC and the SPSCs has come up for discussion at different times and at various forums. The question was first deliberated upon in the Parliament in 1958. Dr. Sushila Nayyar (a former Health Minister of the Government of India) made a strong

²⁴UPSC, 25th Report (1974-75), *op. cit.*

²⁵The Constitution 43rd Statute (Amendment) Bill was introduced in the Lok Sabha on August 26, 1976 and enacted on September 1, 1976. See *The Hindustan Times*, August 27, 1976 and September 2, 1976.

plea that instead of separate service commissions for the Union and the States there should be only the UPSC at the Centre, and the State Service Commissions should be wings, branches, or sections of the UPSC in a regional fashion. She thought that the complete separation of the UPSC and the State Public Service Commissions was not desirable and was not capable of giving the best results.²⁶ Similarly, Aurobindo Ghosal (Forward Block Marxist, Uluberia) felt that as the State Public Service Commissions were almost 'a titular body', there should be some supervisory power of the UPSC over the State Commissions, and that the Constitution should be amended suitably to ensure this supervision.²⁷ Some newspapers also complained that "there does not seem to be that close relationship between the UPSC and other Service Commissions which is necessary if the best talent is to be attracted to the service."²⁸

The utility of the conference as a link between the UPSC and the SPSCs was also emphasised in a report of the estimates committee of the Lok Sabha. The committee was of the view that notwithstanding the absence of any constitutional link between the Union and the State Public Service Commissions, such conferences do serve a useful purpose in that they facilitate exchange of views on matters of common interest and pooling of experience. Further, these conferences help to evolve uniform approach and common work procedures in the commissions throughout the country which is desirable, particularly because the Constitution envisages a single pattern for both the Union and the State Commissions and the functions of both are of a similar character. The committee recommended the idea of conferences of the chairmen of the UPSC and SPSCs once in three years. A simultaneous meeting of the secretaries of the Union and State PSCs was also desirable,²⁹ the Committee said.

The Study Team of the Administrative Reforms Commission (ARC) on Centre-State Relations also pleaded for a similar role of the UPSC. It noted that although the State Commissions are creatures of the Constitution, their composition and organisation are subject to the State list. It is important for the Public Service Commissions to function efficiently and independently as it is for the higher judiciary. The safeguards provided by the Constitution to secure this independence have proved rather less effective than those provided for High Courts, and the quality of work done by State Commissions has gone down in recent years. The root cause of the decline appears to be a

²⁶India, *Lok Sabha Debates*, Vol. 13 (1968), col. 4829-30.

²⁷*Ibid.*, col. 4852.

²⁸*Deccan Herald* (Bangalore), September 3, 1960, p. 3:2.

²⁹India, Lok Sabha, Estimates Committee, 4th Lok Sabha, *47th Report, Ministry of Home Affairs, UPSC* (1968), p. 126.

tendency on the part of some State executives to pack their Commissions with sub-standard members, often for political reasons.³⁰ There is a clear need for evolving a national policy regarding State Public Service Commissions, which ensures that they function with independence and a high degree of competence. And if there is a case for a national policy here, it is difficult to avoid allotting at least a coordinating role to the Centre and the Union Public Service Commission.³¹

The Thorat Study Team of the ARC on the UPSC also emphasised the desirability of such conferences (at least once in two years), where matters of mutual interest can be discussed. It asserted that these conferences will provide thought and germinate new ideas, besides suggesting solutions for common problems. In addition, the chairmen of the SPSCs should also be associated more frequently with the selections held by the UPSC. It also stressed the need for increasing the competence of the secretariat and it would be useful, the Study Team noted, if officers of the State PSCs are attached, for brief periods, to the secretariat of the UPSC so that they could acquaint themselves with sophisticated methods of dealing with recruitment matters.³²

The ARC report on personnel administration had some other suggestions to make with respect to the appointment of members of the UPSC/SPSCs on a uniform pattern. Welcoming the idea behind the suggestion of the Study Team on Centre-State Relationships that, as far as possible, one-third of the members of the State Public Service Commissions should consist of members belonging to another State, it recommended that it would be sufficient if provision was made for the appointment of at least one member of a State PSC from outside the State.³³ It also recommended: (a) in making appointments to a State PSC, the governor should consult the chairman of the UPSC and the chairman of the State PSC. The latter may be consulted also with regard to the appointment of his own successor; (b) in making appointments to the UPSC, the chairman of the UPSC should invariably be consulted (even with regard to the appointment of his own successor); and (c) not less than two-thirds of the membership of the UPSC should be drawn from among the

³⁰For example, there have been instances where the chairman of a State Commission was not even a graduate. His only claim to the post was his political inconvenience which has to be looked after by his appointment to a remunerative post. See Dharam Vira, "Ending Political Appointments", *The States*, 27 April, 1974, p. 12.

³¹See Government of India, Administrative Reforms Commission (ARC), *Study Team Report on Centre-State Relationship*, Vol. I (September 1967), pp. 174-75.

³²ARC *Report of the Study Team on Recruitment, Section, UPSC, State PSCs and Training*, (New Delhi, 1968) (Chairman S.P.P. Thorat), para 2.7.5. and 2.7.6.

³³ARC, *Report on Personnel Administration*, New Delhi, 1969, p. 57.

chairmen and members of the State Public Service Commissions.³⁴ It can be seen that these recommendations, besides maintaining uniform standards in the appointment of the members of the commissions do, at the same time, aim at a better coordination of their activities. This also implies that the UPSC should have an integrative role in more or less the same way as is the case of the Supreme Court of India *vis-a-vis* the lower courts in the States. Another of its recommendations with respect to the creation of a research cell in each of the PSC, where all the relevant data regarding candidates, etc., may be assembled, collated and interpreted³⁵ is an attempt at sponsoring research activities in a vital sphere on a coordinated and cooperative basis.

SUGGESTIONS FOR CONSIDERATION

That formal contacts between the UPSC and the SPSCs will be useful is a fact which hardly needs justification. There has been considerable criticism of the manner in which many State Public Service Commissions have functioned. It has been alleged that the functioning of some of the State Public Service Commissions has reflected the 'factionalism' and the 'groupism' prevailing in the ruling party in these States. It has also been very often charged that some members appointed to State Commissions had neither the requisite training nor the background for discharging properly the functions of an impartial and judicial organisation. The result is that while the prestige of the UPSC has remained fairly high, the prestige of some of the SPSCs has fluctuated. It cannot also be denied that the relationship between the governments and the Public Service Commissions in some States has not been very cordial and that more often than not the State Governments have gone against the advice tendered by their Public Service Commissions.³⁶

From the standpoint of better and efficient public services, it is important that there should be more collaboration between the UPSC and the State Public Service Commissions in order to ensure uniformity of standards in the services. The UPSC has often complained against the inability of the new constitution to provide it with some sort of a formal relationship with the State Public Service Commissions (which is necessary), as both the UPSC and the SPSCs share the same problems and matters of common interest.³⁷ Thus a sound case

³⁴ARC, *Report on Personnel Administration*, *op. cit.*

³⁵*Ibid.*

³⁶For a discussion on how many of the State Public Service Commissions came to be dominated by politics, See Hayes, *op. cit.* pp. 158-62 and Sharma, *op. cit.*, pp. 217-56; also see Dharam Vira, *op. cit.*, and R.C.S. Sarkar, "UPSC: Erosion of Authority"; Darbari Lal Gupta, "Too Many Executive Discretions", and T. N. Chaturvedi, "Need for Comprehensive Inquiry", *The States*, 27 April, 1974.

³⁷UPSC, *3rd Report* (1952-53), p. 3.

exists for the establishment of some sort of formal contacts between the UPSC and the State Public Service Commissions.³⁸

A suggestion has been made in this respect to establish a National Council of Public Service Commissions for frequent contacts.³⁹ Such a Council will have representatives from the UPSC and other State Public Service Commissions and would meet more frequently and formally. The suggestion seems to be a variation of the present conferences of the chairmen of PSCs but on an institutionalised basis. Apart from these conferences there is a need for more points of contact between the UPSC and the SPSCs to maintain uniform personnel standards. One way would be to implement the suggestion of the ARC that the chairmen and the members of the PSCs of the States should be appointed in consultation with the chairman of the UPSC.

Another suggestion worth serious consideration is that the UPSC should be entrusted with the power of some kind of supervision over the State Commissions. For example, it might be given the power to review the various recruitment rules or service principles to ensure that they are in consonance with the standards governing service in the Central Government. This would also ensure that the civil servants in different States are not subjected to varying standards of treatment with regard to their rights and privileges, and eventually, in respect of emoluments as well. In the context of the peculiar social, economic and political factors in India, it is inevitable that a healthy relationship should obtain between the UPSC and the SPSCs in order to ensure uniformity of standards in recruitment, service conditions and personnel practices relating to the Central and State Government employees.

A NATIONAL INSTITUTION FOR PUBLIC SERVICE COMMISSIONS

Perhaps a more enduring innovation in this area would be to constitute a National Institution of Public Service Commissions on a regular basis with a permanent secretariat headed by a specialist in personnel administration or a scholar of eminence in this field to guide and carry on its day-to-day activities. The executive council of the Institution may consist of representatives from the UPSC and the State PSCs.

The National Institution, assisted with a permanent staff, apart from having the responsibility of coordinating the various activities of the UPSC/PSCs could also possibly take over many of the functions of research and development in the field of personnel administration

³⁸UPSC, *11th Report* (1960-61), p. 2.

³⁹R.A. Deshpande, "Organization and Functions of Public Service Commission: A Comparative Study-II", *Civic Affairs* (Kanpur), Vol. 8, November 1961, p. 20.

such as the development of a uniform system of personnel management, the development of personnel standards, standard recruiting procedures principles of promotions, validation and development of new tests, considerations of appeals, and so on. The Institution might also undertake to provide training under its auspices to the members and staff of the Public Service Commissions in various fields of personnel management and practices and relating to specialised aspects of the Commissions' work with a view to setting up uniform standards of personnel conduct. This would also tend to wipe out any deficiencies in the personnel practices of the States because of the non-availability of such facilities.

Personnel research is an area which seems to have received scant attention not only within the Public Service Commissions, but also by those who are responsible for directing and engineering human resources. This is a very crucial area of social science research; yet it is still conspicuous by its absence among public personnel agencies in India. The UPSC and the State PSCs devote a deplorably small expenditure under this head. In a way the function has not achieved anything like the stature that it requires, if modern governments are to profit from the knowledge about the utility of sound and continuing research in personnel administration. The National Institution, if established, would go a long way to serve the needs in this area. With its semi-autonomous status, and its detachment from the day-to-day problems which the UPSC and the SPSCs find most difficult to extricate from, and with adequate funds available from a variety of sources (presumably both government and non-government), it may be in a better position to undertake continuous research in a number of key personnel areas. These may include: (a) developing more sharply the genuine, as distinguished from the presumed, qualifications needed to perform various classes of work, (b) to find the optimum ways of reconciling career stability with the infusion of new blood, (c) to learn how to balance personal freedom with the necessities of bureaucratic impartiality and ethical behaviour, (d) to devise fresh ways of developing employee skills in motivation and supervision, (e) to discover practical means of reporting and evaluating personnel policies and practices, (f) to ascertain the impact of computer technology on work, on people, and on work procedures, and (g) many other areas of test construction, validation, salary rationale, classification and promotion policies, disciplinary cases and actions and employee grievance.⁴⁰

Apart from providing a forum for enduring contacts for the

⁴⁰Such a list of areas of research which may be expanded further has been suggested by Professor O. Glenn Stahl. See his *Public Personnel Administration*, New York, 1971, p. 393.

UPSC/SPSCs, personnel research alone will more than justify the establishment of the National Institution. It would very appropriately fill some of the neglected gaps in the field of human affairs. As Professor Stahl has put it, "until detached fact-finding and analysis with better support from executives, from personnel officials, and from those who hold the purse strings, personnel administration will fall short of its supreme goal of creating and maintaining a highly motivated work force serving the public interest."⁴¹ If our legislators and administrators rise to the occasion to create such an institution of national importance, within the compass of our personnel system, they would have provided a potent force in assuring that public administration would meet the tremendous challenges of a developing society in a concerted, coordinated and integrated manner.



⁴¹O. Glenn Stahl, *op. cit.*, p. 396.

Indian Federalism and the Indian Administrative Service*

C.P. Bhambhri

THE DEMOCRATIC political system of India is on trial. The collapse of the 'one party dominance system' in the general elections of 1967, emergence of unstable coalition governments in many States, the grand split in the Congress party in 1969, and the near certainty of 'coalition' governments being formed both in the Centre and in the States after the next general elections—all this changes the context in which the institutions of parliamentary democracy were operating. All these changes have a direct bearing on Centre-State relations in India. When the Congress party was in power both at the Centre and in almost all the States of India up to 1967, whatever stresses and strains were observed in Union-State relations were resolved by informal methods. After the elections of 1967, a new phase in India's political life has started. Different political parties are in power in the States and at the Centre. The impact of this change has been severely felt on formal and legal institutions like those of the governor and the Indian Administrative Service. Discussion shall be confined here to the impact of new political developments on the functioning of the Indian Administrative Service.

I

A pure federal model in essence means 'division of powers' between the Union and its units with 'autonomy' in their respective spheres of activity. If the pure model is accepted, it means that whatever powers have been given to the States should be managed by the State Government concerned with the help of its own administrative personnel and agencies. The only exception recognised in all federations is that in grave periods of emergency, crisis or breakdown of law

*From *Indian Journal of Public Administration*, Vol XVI, No. 3, 1970, pp. 321-32.

and order, federal authority may take action in State matters with a view to helping the State Government perform its functions.

No known federal system works on the basis of 'pure model'. All pure features of federations have been 'diluted'. "Owing to the variety of possible origins, every federalism is likely to be different from every other."¹ The framers of India's Constitution had not started on a clean slate. Certain institutions which were tested and tried in the pre-independence period were accepted after independence, and the concept of an all-India service was attempted to be reconciled with the idea of federalism. An integrated, well-knit, all-India service to manage important and crucial sectors of administration throughout the country was a 'legacy' of the past and the framers of the Constitution accepted it.²

Recruitment to the IAS (as a successor service to the ICS) is on an all-India basis. An IAS officer is allotted a State where he is expected to serve under a State government. No serious disciplinary action can be taken against a member of the IAS by a State Government without the concurrence and approval of the Centre. Within the State administration, crucial positions are occupied by the IAS, who after gaining rich experience of the district and State administration can migrate to Centre to occupy positions of responsibility in the Central Secretariat or other important Central government agencies.

This arrangement, that an all-India service shall manage affairs both in the States and at the Centre, has been justified in the interest of efficiency in administration. The Administrative Reforms Commission wrote in its report:

At the time of Independence, two new all-India services, viz., the IAS and IPS, were created, the existing members of the old ICS and IP being borne on the new cadres. The intention of having all-India Services was mainly to ensure uniformly high standards of administration in all States in key activities, to provide for interchange of experience between the States and the Centre, and to obtain, where needed, the experience of State administration at the decision-making levels at the Centre.³

The ARC Study Team on Centre-State relationships and the ARC Study Team on Personnel have also said that the 'continuance of the

¹Carl J. Friederich, *Constitutional Government and Democracy*, New Delhi, Oxford & IBH Publishing Co., 1966, p. 204.

²Asok Chanda, *Indian Administration*, London, George Allen & Unwin Ltd., Second Edition, 1967, pp. 102-110.

³ARC Report, *Personnel Administration*. New Delhi, Manager of Publications, April 1969, p. 7.

Service (IAS) is imperative.⁴

The ARC report asserts:

The all-India Services have come to stay. The concepts underlying the all-India Services, namely, common recruitment which seeks to ensure uniform standards of administration in all the States, and the availability of experience gained in different parts of that country to the higher administration at the Centre are valid. More all-India Services are being contemplated in different fields of administration in the States and at the Centre. We would urge their early formation. It is, of course, obvious that such all-India services would be in a position to function effectively only if Centre-State relations continue to rest on a sound and cordial basis.⁵

Sardar Vallabhbhai Patel defended the idea of all-India services for it provided unity to the country, efficiency to administration and offered frank and objective assessments because the selections are made on merit and on an all-India basis. He said:

Many of them (all-India Services) with whom I have worked, I have no hesitation in saying that they are as patriotic, as loyal and as sincere as myself . . . we are talking here under security kept in very difficult circumstances. These people are the instruments. Remove them and I see nothing but a picture of chaos all over the country.⁶

II

The questions that have to be answered on the basis of available empirical evidence regarding the functioning of the IAS are:

- (a) How did the IAS function from 1947 to 1967 ?
- (b) How are they likely to function under the changed context of Centre-State relations in post-1967 India ?

Functioning of the IAS in the States from 1947 to 1967

The Indian Administrative Service official went to the State and was expected to adjust to the demands of the State politics. There was

⁴ARC Report, *Personnel Administration*, op. cit., p. 8.

⁵*Ibid.*, p. 15: Also see, ARC Report, *Study Team on Centre-State Relationships*, Vol. I, Sept. 1967, pp. 236-271.

⁶B. Shiva Rao (ed.), *The Framing of India's Constitution*, New Delhi, IIPA, 1968, p. 722.

no governor-general or governor to safeguard his interests as it was the case before 1947. The Central Government only ensured that no serious disciplinary action would be taken against its members of IAS. If the IAS Officer was harassed by the local or the State leaders, or if he was inconveniently transferred, it was he who had to thrash the issues with the State leaders. The performance of the IAS up to 1967 fell in one of the following categories:

1. adjusted well with the State leaders, worked efficiently, got a good chit from them, and migrated to the Centre;
2. could not adjust well to the political culture of the State, remained unhappy and ultimately resigned; and
3. entered into a collusion with State leaders and became a party to maladministration.

After examining the above three categories a conclusion regarding the pattern of behaviour of the IAS in Centre-State relations up to 1967 may be reached.

The all-India service personnel who could not adjust with the State Governments charged the latter of following policies of interference in day-to-day administrative matters on purely political or party considerations. It was alleged by this category of officials that the norms of administrative efficiency came into conflict with the demands of political leaders who put pressure on the officials to do things for personal or party gains of the State leaders. Even the chief ministers of some of the States were a party to the harassment of the officers. The following three observations will prove that the above mentioned malady existed:

- (a) Dr. Nabgopal Das, who resigned from the ICS, has the following to say about Bengal:

...(there) functioned an administration in which decisions were taken by only one man (Dr. B. C. Roy, Chief Minister), who would often impatiently brush aside advice given by senior officers. I do not deny that, in a problem state like West Bengal, a certain degree of firmness was both necessary and desirable, but I have always held that even the most well-meaning dictator cannot rise above his predilections and prejudices and these latter need not necessarily be always for the common good. It was not, therefore, to be wondered that the chief minister and I often clashed. The climax came in 1958 when, as special secretary, home department, in charge of anti-corruption and the enforcement of special laws, I started

submitting reports on corruption and other malpractices in high places and desired that action be taken against certain individuals. A gentle hint was given to me that I should 'go slow' with these enquiries. I was even promised a better assignment if only I would be a little more accommodating. Unfortunately, I was far too pig-headed to listen to such counsel. The result was a virtual deadlock causing considerable mental agony and worry to me.⁷

- (b) Similarly, N. Baksi narrates his experiences of pressures under the Congress ministers of Bihar headed by Dr. Sri Krishna Sinha in connection with the stand he took in respect of his position 'as the court of wards'. His harassment was so acute that he resigned on the 16th March, 1959 with the statement that "my spirit was not in harmony with the official environment of my life."⁸ His whole case should be carefully studied.
- (c) N. B. Bonarjee, who was the chief secretary of Uttar Pradesh, resigned from the service since he found himself, "unable to fit snugly into the altered administrative ethic, resignation was the only straight forward case."⁹ Writing about his experiences as chief secretary, he says:

...the question of appointments became the subject of personal likes and dislikes and the sources of canvassing. The administrative merits of officials ceased to be the criterion, and one minister even went so far as to pass orders to me that no postings should be made to his home district without his specific consent. Even when it was explained to him that, if all ministers were to pass similar orders, no postings could ever be made, it was doubtful whether he understood the position. The postings of key men to the districts thus became shuttle-cocks between a number of politicians motivated solely by their own personal idiosyncrasies. So much so that in some cases it became impossible to make appointments at all without considerable delay, and important and heavy districts were left in the hands of junior and inexperienced staff at a critical time.¹⁰

⁷Dr. Nabgopal Das, "My Life in the ICS", Kewal L. Panjabi (ed.), *The Civil Servant in India*, Bombay, Bharatiya Vidya Bhawan, 1969, pp. 263-64.

⁸N. Baksi, "In Bihar—The State of My Adoption", Kewal L. Panjabi (ed.), *op. cit.*, p. 211 (pp. 141-213).

⁹N. B. Bonarjee, *Under Two Masters*, London, Oxford University Press, 1970, p. 255.

¹⁰*Ibid.*, p. 233.

III

Another category was of those IAS officers who succumbed to the pressures of the state political leaders and became a party to maladministration. An IAS official was expected to provide clean administration, and his all-India character was expected to ensure impartiality in conduct. The Das Commission's inquiry into the conduct of Sardar Pratap Singh Kairon, the then chief minister of Punjab, revealed that even the highly placed officials indulged in nepotism to curry favour with the chief minister. Justice Das repeatedly writes in his report that officials' conduct was influenced by a desire to please the chief minister and that they did not hesitate even in doing illegal acts.¹¹

It must be noted here that compared to the State administrative officials, the IAS officials were firm and stood their ground and only a small fraction of them collapsed in integrity in the face of pressure from the State political leaders. It was not because of the presence of any special virtue in the character or personality of the IAS Officers or the absence of that virtue in the State administrative service officers. It was because of the recruitment of the IAS on all-India basis, better salary and status in the service, and its elite character. These factors ensured better level of conduct of the members of IAS. But cases are on record where the service failed to provide clean administration in the States.

IV

Besides maladjusted officials, who ultimately resigned or officials who indulged in maladministration, the IAS officers established good working relations with the political leaders in the States. Two important factors were responsible for a proper understanding between the IAS officers and the State political leaders. They are:

1. While dealing with the IAS officers, the State leaders knew that being members of the all-India service they (the former) would not easily fall prey to the whims and fancies of the latter. Some State leaders realised this fact on the basis of common sense intelligence; others realised it after some kind of confrontation where they found that it was difficult to influence an IAS officer.

¹¹*Report of the Commission of Inquiry* (Das Commission), New Delhi, July 1964; See, Myron Weiner, *State Politics in India*: Princeton, Princeton University Press, 1968; Paul R. Brass, *Factional Politics in an Indian State, The Congress Party in Uttar Pradesh*, Berkeley, University of California Press, 1965; Myron Weiner, *Party Building in a New Nation: The Indian National Congress*, Chicago, The University of Chicago Press, 1967.

2. The IAS officers also made deliberate efforts to provide efficient and clean administration in the States because they knew that this was to be the basis of their being taken in the Centre. After serving a State Government for the prescribed period (14 to 20 years) the IAS officers want to migrate to the Centre which opens many new opportunities for them. How can an IAS officer be accepted by the Central Government if he has not shown efficiency as a district officer or in the State secretariat? Further, if an IAS officer has not been able to adjust to a State minister, how can he adjust with the Union minister? A very important variable in the behaviour of an IAS officer is his desire of going to the Union Government. This desire cannot be fulfilled if he has not received a good chit from a State Government. In sum, a vast majority of IAS officers have worked efficiently and impartially in the States because it was in their own interest to do so. In a rational model of bureaucracy, climbing up in the ladder is a legitimate aspiration. This aspiration of the IAS officers to be promoted to the higher posts in the Central Government has proved useful because it has kept them efficient and honest. Some enlightened State leaders were interested in clean and efficient administration, and the IAS personnel got on very well with them.

Thus, up to 1967, some of the IAS officers could not adjust with the State leaders, some others became a party to maladministration, but the majority of them justified the objectives for which the IAS was created.

V

Post 1967 Period

The above mentioned three types of the IAS officers will continue to exist even in the changed context of Centre-State relations in India. There is an apprehension that the IAS officers may not be able to adjust well to the fast changing political landscape of the States especially where coalition cabinets are collapsing like a house of cards. The adjustment between bureaucracy and leadership takes time. In the new context of Centre-State relations, another role may be played by the IAS. With different political parties in power in the Centre and in the States, the political importance of the State leaders will increase. The Central Government will have to seek cooperation of the State leaders (irrespective of party considerations) for fulfilling certain national goals, like economic planning, agrarian reforms, and fight

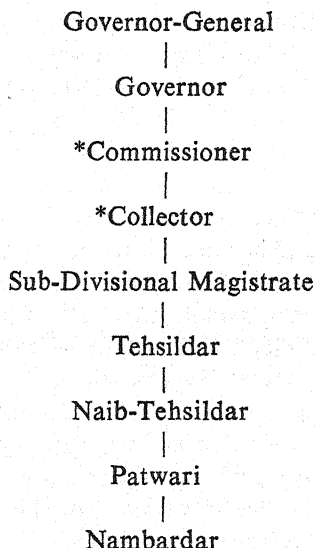
against unemployment. In this situation, the IAS will play a 'moderating role'. An IAS officer will tell his State leaders that so much may be accepted by the Centre, and so much of cooperation with the Centre is in the interest of the State. He will also tell his counterpart in the Centre that his State Government will go to a certain extent on an issue and not beyond it. The IAS will project the right demands of the State before the Centre, and convince the State that the Centre will not tolerate more than the specified limit. Because the IAS is a well-knit integrated service, the IAS officer in the State has his counterpart in the Centre, and because both belong to the same service, all sorts of bottlenecks between Centre and the State are likely to be resolved to a certain extent through the instrumentality of the IAS. It is an important and a difficult and new role for the all-India service to act as defenders of the State Government's interests, to identify with the State leaders, and to exercise 'moderating' influence on the reckless adventurism of party leaders. More and better channels of communication will have to be evolved between the Centre and the State secretariats so that respective viewpoints of the Centre and the State Governments get full appreciation; and in this, the role of the IAS will be very crucial. When the Congress party was in power both at the Centre and in the States, differences between the Centre and the State were resolved informally on party basis. With the breakdown of this system, some agency will have to perform the task of smoothening Centre-State relations; this will be the task of the IAS, whose members will have to work as errand boys, messengers, informers, negotiators, and coordinators of Centre-State activities.

VI

Safeguards for the IAS

The above analysis of the behaviour of the IAS has shown that it has to serve two masters faithfully and efficiently. The concept of the all-India service worked very well during the British period because of the unitary character of the government. In spite of the brief experiences of provincial autonomy of 1935, the British provinces were simply administrative areas subject to the full control of the governor-general of India. Even when popular ministries were installed in the provinces, full protection was given to the ICS by the provincial governors, many of whom were members of the governor-general's executive council or had been former members of the ICS. An unbroken chain of command was established from governor-general to governor to commissioner to collector. The Chart of hierarchy was as given on next page.

CHART 1 PRE-INDEPENDENCE HIERARCHY OF CIVIL SERVANTS



Thus all-India service fitted well into the British framework of administration.

In a federation, an all-India service is an innovation. Like all such innovations, it poses problems. The most important problem observed during the past two decades is that the IAS was left to its own ingenuity to adjust to the State Governments. The Central Government recruits IAS officers and guarantees that no serious disciplinary action shall be taken against them without the prior permission or concurrence of the Centre. For the remaining conditions of work, the IAS officer has to establish his own rapport with the State Government. This gives a good handle to the State Government to harass him, if it is interested in doing so. The most important device adopted by the State Governments to get rid of uncompromising and unobliging IAS officials has been to transfer them frequently and to post them in unimportant places.¹² Postings and transfers should be on purely administrative considerations. Further, it is not a minister's job to decide who will be appointed collector in which district. Postings and transfers are administrative decisions to be taken by adminis-

*All ICS officers were on these positions. Hence, it shows that ICS was in an exclusive control of the situation.

¹²Average period of stay for District Collector of Jaipur is about one year : See Shum Sun Nisa Alvi, *Development Role of the District Collector* (A study in Jaipur District) (unpublished thesis), Jaipur, Department of Public Administration, University of Rajasthan, 1969, pp. 37-38.

trative officials. The role of ministers in a democracy is to formulate policies and supervise their implementation. Instead of performing their main task, they are busy, it is said, in taking unhelpful interest in day-to-day matters of transfers and postings. It is not without reason that transfers of key officials are very frequent and on whimsical and political considerations. It affects the morale of the services. Besides transfers on flimsy grounds, suspension of the IAS by State Government can be another device for harassment of the officials. A suspended IAS official can send memorial to the President if he feels that he is not getting fair treatment from the State Government. But the Central Government cannot ask a State Government not to proceed with an inquiry against an official or not to suspend him.¹³ An ICS officer enjoys this privilege. He cannot be suspended by the State Government. Only President can suspend him. The Supreme Court did not uphold the suspension of R. P. Kapur, ICS, by the State Government.¹⁴ It is the Central Government's responsibility to care for the morale of the all-India services. This factor has assumed importance because the chart of hierarchy of administrative set-up between the British period and the post-independence era has undergone a change. The chart is given on next page.

Hence, an institutional arrangement to defend the legitimate interests and service conditions of the IAS officers posted in the States is needed; and one suggestion can be that the chief secretary of a State, who is head of the services, should be appointed by the Union Government to discharge this responsibility. This is a logical step if the morale of the all-India services has to be defended. If merit has been seen in the idea of an all-India service and experience has proved that such a service can stand the test of time, it is necessary that service conditions for such a service be safeguarded both by the Union and the State Governments. The chief secretary of a State should enjoy great authority in matters of transfers and postings of the members of the IAS. The Maharashtra Reorganisation Committee (1962-68) recommended that the chief secretary should "be concerned only with matters relating to transfers, appointments and promotion of heads of departments and senior gazetted officers."¹⁵

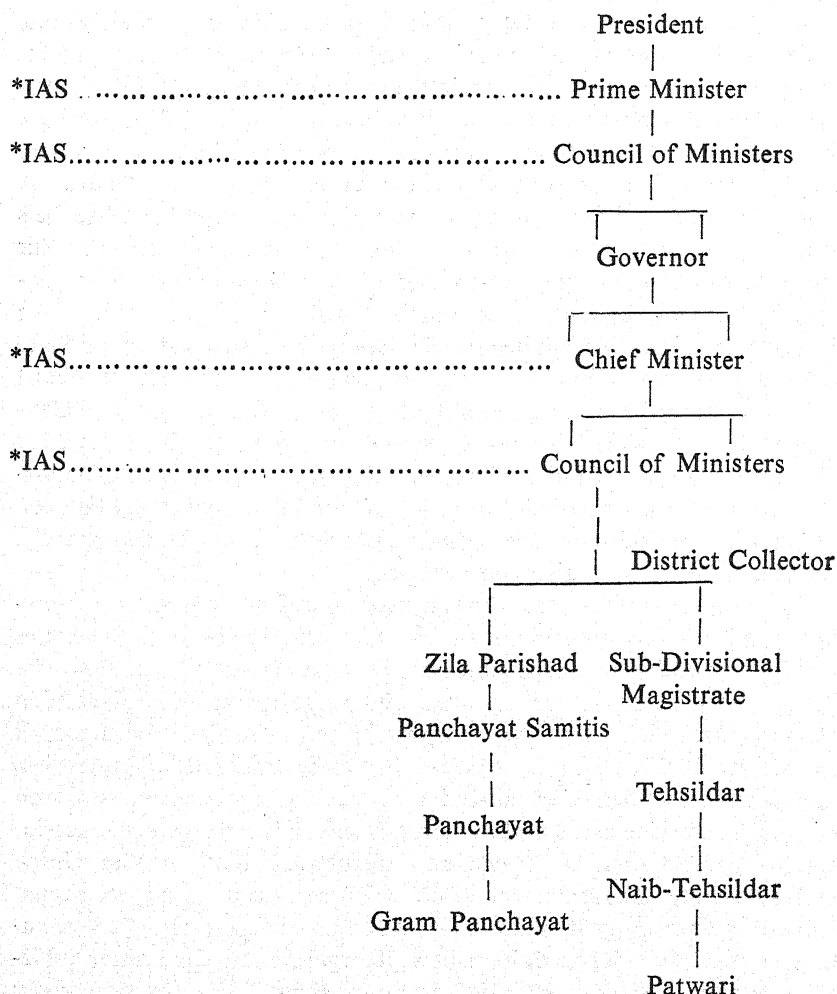
The chief secretary can perform this function only if he can act independently of the State Government. It is surprising that the ARC Reports on Centre-State Relationships, and State Administration have nothing to say about the necessity of safeguarding the conditions of service of the IAS while working in the States. The ARC Study Team

¹³*All India Services (Discipline and Appeal) Rules*, 1967, Rules 3 and 7.

¹⁴*R. P. Kapur vs. Union of India*, A.I.R., 1964, S.C. 787.

¹⁵Quoted in ARC Report on *State Administration*, November 1969 (Cyclostyled), p. 50.

CHART 2 POST-INDEPENDENCE HIERARCHY OF CIVIL SERVANTS



on Centre-State Relationships also observed that:

...the Central Government must keep a vigilant eye on the health and vigour of the service for which it is, in the ultimate analysis, responsible. For too long in the past did it adopt a

*Broken lines (.) show supportive role of the IAS. He is accountable to the deliberative bodies. He is answerable to the political leaders. All this did not exist during British days.

policy of an acquiescent spectator.¹⁶

But neither the Study Team nor the Report has spelt out specifically as to what kind of safeguards are needed to keep the morale high of the IAS in the States. □

¹⁶ARC Report of the *Study Team on Centre-State Relationships*, New Delhi, Manager of Publications, Vol. I, 1970, p. 241.

Administrative Aspects of Some Common Functions

V.M. Bhide

UNION-STATE relations have been, of late, a very popular subject of public debates, press articles and seminars. Quite frequently, the discussion has political overtones. Usually, the financial aspect of the issues involved gets highlighted. Some argue that the Centre has unduly reserved for itself large powers even in regard to day-to-day functions of administrative machinery over which legitimately the States should have entire control. Others contend that the attitude of the States betrays a lack of sense of responsibility and that there is, in fact, a case for the Centre to assume greater powers in certain sphere of administration hitherto regarded as common fields of operation. The argument very often tends to proceed on partisan lines and the issues get diffused. Inevitably the picture gets somewhat distorted. While the present discussion as it goes on may be all right from a political standpoint or a purely juristic point of view, it can perhaps be more purposeful if attention is focussed on the centre objective of the Constitution, viz., the general well-being of the common citizen. One cannot help feeling that this point is invariably missed. It is often forgotten that any discussion on the question of Centre-State relationship can become relevant from an ordinary citizen's point of view if it is related to the normal administrative functions of both the Centre and the States or the smooth functioning of the various organs of the entire administrative machinery.

A common citizen is obviously more concerned about the administrative aspects of the entire operation of the government machinery rather than mere ethics of Union-State relationship. To him what matters is his personal experience when he comes in contact with any institution involved in public administration irrespective of whether it belongs to a State or to the Centre. The directive principles of State policy mentioned in the Constitution, stipulate among other things, that

the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties. The State has obviously to use a number of its organs in the discharge of his responsibility. These include the administrative machinery of the Central Government, the State Governments or even the municipal and other local self-government institutions. For so long as the functionaries of these institutions diligently perform their duties and the individual gets the services rendered by them reasonably satisfactorily, he is not likely to enquire as to who appoints these functionaries or who exercises administrative controls over them, for instance, sanitary inspectors or health inspectors are appointed by the municipalities as also by the States. So long as they function efficiently and the individual gets the benefits of the health services in adequate measure, he will not bother as to the authority that appoints them or as regards the source which provides the funds for the health services. It is only when the contact of the individual with the organ of the administration responsible for the provision of some essential amenity or service becomes sluggish or reduces or destroys mutual confidence, that the individual is attracted towards such basic issues as the relationship between the State and the Union.

A perusal of the seventh Schedule of the Constitution will show that there are a number of items relating to the provisions of essential amenities of daily life of the individual in which both the Central as well as the State Governments have to play specific roles in the discharge of the responsibilities cast on the State in accordance with the directive principles of the Constitution. It is proposed to examine, briefly, in this article the functioning of the operative machinery responsible for providing some of the basic amenities to the individual under some of the common items entrusted to the States and the Centre so as to focus attention on the administrative aspects of the Union-State relationship in the discharge of the functions assigned to them.

WEIGHTS AND MEASURES

Let us take the simple question of the administration of weights and measures. That the provision of accurate weights and measures and an effective control on the maintenance of standards is a basic need of the community, cannot be disputed. The importance of such a control for the economic advance of the country is also obvious, and at any rate the idea is not new to our country. In ancient India, such control appears to have been effected through a Central agency. Evidence of legal metrology is found in the Indus Valley Civilisation. Kautilya's 'Artha Shastra' also reveals the importance given to the maintenance of accurate weights and measures; operation of the laws on

the subject also included an effective Central authority for the maintenance of the standards. Subsequent history of the operation of such laws, however, presents a dismal picture. Adoption of a new coinage and weights became the symbol of sovereignty of the rulers of the numerous kingdoms. Frequent changes and multiplicity of standards must have encouraged anti-social elements which were always prone to take advantage of the lapses in the administration. With the passage of time malpractices adopted for personal gains seem to have acquired the sanctity of trade customs, some of which are prevalent in one guise or other even now.

The Constitution makes a specific mention of weights and measures in the list of functions of the Union and the States and divides the responsibility between them almost equally. Under entry 50 of list I (Union List) of the seventh Schedule, the Centre is made responsible for the establishment of standards of weights and measures while under entry 29 of list II (States List), weights and measures, except the establishment of standards, has been left to the care of the States. Under entry 51 of list I the Union Government is further responsible for the establishment of standards of quality of goods for the export out of India or for transfer from one State to another. It will be observed that while the Centre's responsibility extends, beyond the establishment of standards and it can insist on the standard or quality of goods exported outside the country or transferred from one State to another, the primary responsibility for the enforcement of the use of correct weights and measures to the standards laid down by the Centre is that of the States. For giving effect to the Constitutional provision, the parliament passed the 'Standards of Weights and Measures Act' in 1956. With the passing of the Act, a model enforcement law, was presented to the States which they faithfully adopted. They were also supplied with model rules, specifications for weights and measures. Provision was made for training and a pattern of organisation was suggested to the States and above all financial assistance for the implementation of the whole programme. However, it is not enough merely to adopt a law regarding the standards of weights and measures or frame rules for its implementation. The importance of the use of accurate weights and measures by every one concerned in the daily life of the community and to the entire economic activity has to be fully realised and the implications of the lapses in the enforcement of the law or the rules have to be imaginatively understood by all concerned for achieving the underlying objective.

Traders are known to adopt ingenuous ways of exploiting consumers in the absence of deterrent fear of enforcement of the law. In our country, the maxim 'customer is right' is unknown and no opportunity to exploit the consumer is ever allowed to pass. Even a

slight manipulation of weights and measures will easily give an unscrupulous retail trader an undue profit of 5 to 10 per cent. The Directorate of Weights and Measures at the Centre has estimated that even if the consumer is defrauded to the extent of one per cent, the total loss incurred every year may be of the order of Rs. 140 crores. If the exploitation is of the order of five to ten per cent, which is not unlikely, the loss to the consumer might be between three to seven per cent of his income. If one were also to take the exploitation in the wholesale transactions into account, the magnitude of such loss will obviously be colossal.

In the absence of effective enforcement, the peasant and the consumer can both be exploited at every stage of the transaction and even on a conservative estimate, the loss incurred by the common man in the wholesale and the retail transactions taken together may eat up a sizable portion of his annual income. The psychological effect of such a situation can be well imagined. The importance of a simple administrative function like the standardisation and implementation of weights and measures, therefore, needs to be viewed from the viewpoint of an average citizen. The expectation that there would be very close cooperation between the Centre and the States in the application of accurate weights and measures, has still to be realised. From all accounts, the enforcement has been somewhat tardy. While some States have done better than the others, in this regard, many have still to realise the importance of the matter. While the pattern of organisation envisages a separate organisation with full-time responsibility, many States have allotted additional duties to the personnel employed in the weights and measures organisation. In many States, the inspectors are poorly qualified and the whole enforcement work in this vital service to the community, leaves much to be desired.

In the context of our ardent desire for rapid economic growth with social justice, the need for accuracy in weights and measures to industrial production, to public health and safety or to education has to be appreciated. Large manufacturing units have very often to depend on smaller units for the supply of parts or ancillaries. The latter produce the requisite parts with scales or gauges whose accuracy may not be known or is seldom checked in terms of the prescribed standards at any time. A large unit making purchases of such goods may insist on its own inspection with its own gauges or measures to judge the acceptability of the goods produced by smaller units. The result may well be, that a considerable portion of production of the smaller units might get rejected, not because the small units are inefficient, but because the measures or instruments used by both the parties are not checked by the same standards. The rejected parts will not obviously be thrown out but may find their way to the market and passed on as

genuine parts. A lay consumer is hardly likely to know about the fraud that is being played on him. We often hear reports about the adverse effect on our exports due to quality and performance of the products exported not conforming to the prescribed standards. Maintenance of rigid standards in the measurement instruments used in public health cannot be over-emphasised as a slight inaccuracy may lead to disastrous results. Similarly, in the field of education, to meet the increasing demand for equipment requiring precision, numerous concerns have taken up production. Anything that is produced has a ready market, and one does not know if the accuracy and reliability of equipment which is to be assured, is maintained.

It is often alleged that the enforcement of these laws suffers for want of funds with the State Governments. This, to say the least, is not to realise fully the responsibility of the individual States in this regard. The enforcement of laws would enable the States to recover sizable amounts by way of fees to finance substantial portion of the administrative expenditure on the administrative machinery involved. What is really necessary is to recognise the importance of the subject from the viewpoint of social and economic justice. Proper enforcement of the law and the rules in the field, besides creating a psychological climate for the social and economic activity, would also provide a valuable feedback to the Central organisation on the basis of which further refinement in the law or the rules can be brought about.

PREVENTION OF ADULTERATION IN FOOD, MEDICINE, ETC.

Another instance in which the Central and the State administrations have to work in unison, is that of food adulteration. It would not be unreasonable to assume that an average individual would expect that the food articles he has to buy for his daily consumption should be of the requisite standard, clean and unadulterated and obtainable in correct measure or weight. It would be interesting to see how many functionaries are involved and how the Centre-State relationship is inter-woven in providing such a reasonable and simple amenity to the common citizen.

Ensuring that the available food supply is clean or unadulterated within a locality, should ordinarily be the responsibility of the municipal administration. In any case, every State Government desires that its inhabitants should have abundant and unadulterated food supply. Adulteration of food stuffs including milk and other commodities, however, is not of recent origin and the means available to an ordinary consumer to protect himself against malpractices, have, for long, proved to be inadequate. The administrative machinery at the various levels has, therefore, to render him the necessary assistance. While the primary responsibility in this regard may be that of the State Govern-

ment, since the Central Government has to regulate the supply of food articles to the various regions in the country, certain responsibility in maintaining a uniform standard, devolves on the Central Government also. 'Adulteration of food stuffs and other goods', therefore, rightly finds a place under entry 18 of list III (Concurrent List) in the seventh Schedule to the Constitution.

In the past, most of the States had their own food laws, prescribing their own standards and rules for enforcement. These laws, however, lacked uniformity and a need for common Central legislation was obvious. Accordingly, parliament enacted "The Prevention of Food Adulteration Act" in 1954. Under this Act, the Central Government is required to constitute the Central Committee for Food Standards to advise the Central and State Governments on matters relating to the administration of this Act. The membership of the committee includes representatives of the States and the Union Government besides other technical experts. The powers of the Union and the State Governments as also the functions of the Committee, which acts as a coordinator, are clearly stated in the Act. Functions, such as defining the standards of quality of production, distribution and sale of food articles, prohibiting the sale of articles which can be injurious to human health, etc., and prescribing qualifications, powers and duties of food inspectors or public analysts have been allotted to the Union Government. The powers given to the State Governments included defining the powers and duties of food authorities and the local authority, determining their jurisdictions, the fees to be charged for analysing the articles of food, etc. The State Governments are also empowered to delegate powers to the local authorities, like the municipal corporations, municipalities, notified area committees, etc., and also direct that the whole or any part of the fines imposed under the Act be paid to the local authority on realisation.

Ordinarily, proper operation of the provisions of this Act by the various authorities concerned should leave no room for complaint as regards the unhygienic condition or adulteration of food articles. A scheme for the establishment and strengthening of food testing laboratories was also provided under the plans for some time, and the States could draw assistance in the form of grants to cover the expenditure involved. The position with regard to the food testing laboratories that are in existence can be seen from Table 1. Many of these units do not have adequate and properly qualified staff or equipment.

The provisions as regards imposition and collection of fees and reimbursing fines, etc., to the local authorities should obviate the usual complaint of lack of finances. However, as is evident from the widespread criticism of the adulteration of food articles, enforcement of the

TABLE 1 FOOD TESTING LABORATORIES*

<i>Sl. No.</i>	<i>States and Union Territory</i>	<i>Population in 1961 Census (lakhs)</i>	<i>No. of districts</i>	<i>No. of Food Laboratories</i>
1.	Andhra Pradesh	360	20	1
2.	Assam	119	11	1
3.	Bihar	465	17	2
4.	Gujarat	206	17	2 State 3 Municipal
5.	Kerala	169	9	1
6.	Madhya Pradesh	324	43	6 State 4 Municipal
7.	Tamil Nadu	337	13	2 State 1 Municipal Corpn.
8.	Maharashtra	396	26	3 State 2 Municipal Corpn.
9.	Mysore	236	19	2 State 3 Municipal Corpn.
10.	Orissa	175	13	1 State 1 mobile
11.	Punjab	111	12	1 State 3 Municipal
12.	Haryana	76	7	1 State
13.	Rajasthan	202	26	1 State 3 Regional
14.	Uttar Pradesh	737	54	1 State
15.	West Bengal	349	16	1 State 1 District level 3 Municipal 1 Board of Mines
16.	Delhi	27	1	1 Municipal

law or the rules leaves much to be desired. This in turn gives rise to the demand that the Central Government should take some direct responsibility in the implementation of food laws; it in fact led to the appointment of a Parliamentary Committee in 1963, which recommended that the 'Prevention of Food Administration Act' be amended to enable the Central Government to have concurrent powers to appoint their own food inspectors and public analysts for effective enforcement of the Act, especially for checking inter-State movement of adulterated articles. An amendment to the Act was accordingly made in 1964. Complaints about adulterated food articles, however, still continue and it is quite obvious that the administrative aspects of such an important service to be rendered by the State and local authorities need greater attention. A

*Report of the Two-Man Committee to Review the Position of the Enforcement Machinery and Laboratory Facilities for the Proper Implementation of the Prevention of Food Adulteration Act, 1954, Directorate-General of Health Services, New Delhi, Appendix V, p. 19.

coordinated approach by the administrative institutions involved will not only bring about a much needed improvement in the vital sector of such an important service but will also help in reducing the administrative expenditure substantially.

Position with regard to the manufacture, storage, distribution or sale of drugs is almost similar; though, quite obviously, greater vigilance is needed in this regard than even in the case of food articles. The subject of drugs and poisons is included in the Concurrent list in the seventh Schedule. For regulating the import, manufacture, distribution and sale of drugs, the Central Government passed the Drugs Act, 1940, which was amended in 1955. Under the Act, the regulatory functions have been allotted to the Central Government while the enforcement is entrusted to States. The Central Government exercises its functions through a Technical Advisory Board; these functions include specifying the drugs that would need import licence, and prescribing the form and the conditions for the same; prescribing the methods of test and analysis for determining the quality of drugs; prescribing conditions to be observed by the manufacturers, etc. The Central Government has also the powers to make rules which include qualifications and duties of government analysts and inspectors and procedures to be followed in the inspections, tests, collection of samples, etc. The appointments of analysts and inspectors are to be made by the State Governments who are also to prescribe their jurisdiction. The State Governments have also powers to appoint the licensing authority for the manufacture or sale of drugs. Fees have been prescribed for the grant or renewal of the various licences under the Act. The licensing authority is also empowered to delegate its powers to a person under its control.

The rules made under the Drugs Act lay down in meticulous detail the conditions of licences, the procedure for inspections and reporting, qualifications for the various licences, requirements of premises of manufacturers and dealers, requirement of plant and equipment, etc. Ordinarily if the various functionaries were to operate conscientiously, within their respective spheres, most of the objectives underlying the very purpose of the drug control could be achieved without difficulty. In practice, however, the operation of the law and the rules has not been found to be effective. The Central Health Council felt very much concerned about the prevalence of sub-standard and spurious drugs in the country and suggested the appointment of a committee to study the conditions of the drug-control-administration in different States and make recommendations for the effective enforcement of the provisions of the Drugs Act. Some of the observations of the Committee appointed in 1964 in this regard would be of interest:

The Committee observed that in five States, namely, Gujarat, Kerala, Maharashtra, Mysore and West Bengal, there are full-time officers incharge of Drug Standard Control. In most of the other States, the controlling authority is the State Director of Health Services who has to discharge the functions devolving on him under the provisions of the Drugs and Cosmetics Act in addition to his other multitudinous functions although he is assisted by Deputy Directors or Assistant Directors, who, however, are also assigned this work in addition to their other duties.

The Committee further observed that in the States where separate departments exist, the standards of enforcement are better than in other States. As regards the observance of manufacturing techniques and control procedures, the Committee observed that except in a few units no attention was paid to the hygienic conditions. The maintenance of the equipment was on the whole poor. In a number of units, the raw materials were not tested at all before their use in the manufacture and some of the important tests were not performed. The Committee was of the view that there is no proper climate for observance of minimum standards. Manufacturers, in many cases, take advantage of the lapses on the part of the administration and they disregard even the elementary precaution to ensure the safety of the products manufactured by them.

The Committee made very valuable and detailed recommendations for improving the situation and the Central Council of Health on which the States are also represented accepted its report by adopting a resolution in October 1967. There is no evidence yet, however, indicative of any perceptible improvement in the situation. Proposals for improvement are generally associated with proposals for augmenting the administrative personnel which involve costs. These in turn raise demands for funds and thus the whole matter enters the arena of Union-State financial relations. A closer scrutiny of the provision of the law and the rules on the subject would perhaps bring out that there is some built-in-system of raising a substantial part of the required funds and that even with the existing capacity within the organisation considerable improvement can be brought about with some support and readjustment in the administrative set-up. What is essential, however, is the recognition of the fact that in the performance of such functions there is a joint responsibility of the Centre and the State and they have to act in close cooperation with each other to achieve the objective of providing essential amenity to the community.

Instances of this nature where a coordinated approach by all the participating units can contribute to the general well-being can be multiplied, *e.g.*, inspection of boilers and factories. Lack of finances, as

has been shown above, should not ordinarily come in the way of effectively safeguarding the community against the type of malpractices mentioned above and even if the States have to incur a little expenditure initially it is bound to pay them rich dividends in due course. In any case, their expenditure in maintaining the concerned services is bound to be taken into consideration by the Finance Commissions while considering the devolution of resources from the Centre to the States. What is necessary, however, is to identify the spheres of common endeavour in the field of administration, dedicated to the welfare of average citizen.

CONCLUSION

The instances mentioned in the foregoing paragraphs, it is hoped, will be sufficient to emphasise the need for taking into consideration the operational side of the administrative machinery in determining the Union-State relationship in a meaningful way. Discussions on the financial or constitutional aspects of the question, important though they may be, will bring little solace to the common citizen unless these discussions are directed towards reorientation of the Union-State relationship so as to improve effectively the provision of amenities and services promised to him in the Constitution. There appears to be little chance of this happening unless the operational aspect of the various functions enjoined on the States and the Centre to perform is fully taken into account. This points directly to the need for taking up topical studies so as to bring out areas requiring coordinated functioning of the State as well as the Central institutions. Findings of such studies will undoubtedly prove useful in bringing about a better understanding of the whole question. A healthy criticism of the functioning of the administrative system through the inter-play of implementing or coordinating machinery will be far more useful for the smooth functioning of the various institutions and for rationalising or improving the whole system rather than public criticism, which is generally based on hearsay and, therefore, is less informed. On the other hand, corrective measures brought about through the actual identification of the flaws or lacunae in the machinery will impart efficiency to the entire administrative structure. □

Union-State Relations : Administration of Law and Order*

K. K. Dass

THE ADMINISTRATIVE aspects of Union-State relations in the sphere of law and order are inseparable from the legal aspects. The law on the subject is not altogether clear and is still developing. Unless it has been sufficiently clarified, the powers, duties and rights of officers and forces of the Union and the State remain uncertain to some extent. Since officers may hesitate to act unless their actions have legitimacy, the first essential is that they should understand clearly where they stand as the law is today; and for this purpose an authoritative pronouncement is necessary. At the same time, it is necessary that the Union and State Governments should undertake further legislation to meet the types of situations that have occurred with some frequency in the recent past and are likely to occur again in the future.

Let us first look at the Constitution and the law as it now stands. Article 355 of the Constitution says:

355. It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution.

This finds place in Part XVIII of the Constitution headed EMERGENCY PROVISIONS, which deal largely with the Proclamation of an Emergency. This Article, however, makes no reference to an emergency. Hence, the duty of the Union is always present, and does not only emerge when a proclamation is issued. Two other Articles, which have a bearing on this question, are 256 and 257 which read as follows:

256. The executive power of every State shall be so exercised as to

*From *Indian Journal of Public Administration*, Vol. XVI, No. 3, 1970, pp. 333-40.

ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

257. (1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.*

Let us now look at Article 246 which defines the legislative powers of the Union and States. This reads as follows:

246. (1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the 'Union List').
- (2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the 'Concurrent List').
- (3) Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the

*The rest of the Article is as follows:

- (2) The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance:
- Provided that nothing in this clause shall be taken as restricting the power of Parliament to declare highways or waterways to be national highways or national waterways or the power of the Union with respect to the highways or waterways so declared or the power of the Union to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.
- (3) The executive power of the Union shall also extend to the giving of directions to a State as to the measures to be taken for the protection of the railways within the State.
- (4) Where in carrying out any direction given to a State under clause (2) as to the construction or maintenance of any means of communication or under clause (3) as to the measures to be taken for the protection of any railway, costs, have been incurred in excess of those which would have been incurred in the discharge of the normal duties of the State if such direction had not been given, these shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of the extra costs so incurred by the State.

Seventh Schedule (in this Constitution referred to as the 'State List').

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List.

Article 248 gives Parliament residuary law-making powers, and reads:

248. (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

If there is any conflict about laws in the Concurrent list then the law made by parliament, whether passed before or after the law made by the legislature of a State, shall prevail according to Article 254.*

Coming to the lists themselves, we find that the first two items in the State list read as follows:

1. Public Order (but not including the use of naval, military, or air forces or any other armed forces of the Union in aid of the civil power).
2. Police, including railway and village police.

The first 3 items in the Concurrent List read as follows:

1. Criminal law, including all matters included in the Indian Penal Code at the commencement of this Constitution but excluding

*Article 254 reads as follows :

- (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of any existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.
- (2) Where a law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provision of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

offences against laws with respect to any of the matters specified in List I or List II and excluding use of naval, military or air forces or any other armed forces of the Union in aid of the civil power.

2. Criminal procedure, including all matters included in the Code of Criminal Procedure at the commencement of this Constitution.
3. Preventive detention for reasons connected with the security of supplies and services essential to the community; persons subjected to such detention.

The Sections relating to the use of armed forces in aid of the Civil power are 129, 130, 131 of the Code of Criminal Procedure. These read as follows:

Use of armed force. 129. If any such assembly* cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by the armed forces.

Duty of officer commanding troops required by Magistrate to disperse assembly. 130. (1) When a Magistrate determines to disperse any such assembly by the armed forces, he may require any officer thereof in command of any group of persons belonging to the armed forces to disperse such assembly with the help of the armed forces under his command, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(2) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detain-

*An unlawful assembly is meant—*vide* Section 127(1) which reads : Any Magistrate or officer in charge of a police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly."

Power of commissioned armed forces officers to disperse assembly.

ing such persons.

131. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of the armed forces may disperse such assembly with the help of the armed forces under his command, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; if, while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

The Constitution and the law, thus, indicate that while the maintenance of law and order and protection of life and property is primarily the responsibility of the State Government, the Union has the authority as well as the duty to intervene when the State Government is unable or unwilling to discharge its responsibility. This authority and duty of the Union is not limited to cases where its own property or the lives of its own employees are endangered. This is clear from a reading of Articles 355 and 256. The first item in list II of the seventh Schedule also limits the State powers regarding public order to cases where the armed forces of the Union are not employed in aid of the civil power. Here, it may be clarified that the question of aid of the armed forces of the Union to the civil power of the State does not arise only when the latter asks for it, as is borne out by Articles 355 and 256. When the civil power of the State is unable or unwilling to carry out its duties then the Centre is bound by Articles 355 and 256 to employ its armed forces to help in the carrying out of these functions, or to take them over entirely if the civil power ceases to function.

It should be noted here that the armed forces of the Union include not only the military (Army, Navy and the Air Force) but also its armed police forces, such as the Central Reserve Police, and the Border Security Force.

The above, it seems, is the constitutional and legal position as it exists today, but, as mentioned earlier, there should be an authoritative pronouncement so that officers can function under the umbrella of legitimacy.

The next step is to pass laws with regard to those areas which are not sufficiently covered by the existing provisions. Such legislation should cover three areas:

- (a) It should coordinate the powers of the Union with the provisions of the Criminal Procedure Code.
- (b) It should define the role of the armed forces of the Union in the maintenance of public order. Since this role has been explicitly excluded from the State List, it can be dealt with under Parliament's residuary powers of legislation.
- (c) It should ensure that actions taken by the Union authorities are not subject to control by the State Governments, and that persons carrying out these actions are given the necessary immunity from civil and criminal proceedings.

The reason why the first area should be covered is that under the Criminal Procedure Code, as it now stands, any armed force employed in the maintenance of law and order is apparently subject to the jurisdiction of any magistrate who happens to be present or the senior magistrate having jurisdiction. Two lines of action are possible: either to remove the Union forces from the jurisdiction of local magistrates or to empower the Union to appoint magistrates whose orders would override those of the senior-most magistrate of the State Government. I am not in favour of the first alternative. India has a fairly long tradition that, in dealing with the civil population, a magistrate is always interposed between them and the police or the armed forces. Also, magistrates have long experience of dealing with such situations, whereas the armed forces do not and should not normally have such experience. Further, one of the axioms of democracy is the supremacy of the civil power. The armed forces of the Union may or may not be clearly identified as an integral part of the civil power, whereas a magistrate is definitely part of the civil power hierarchy and is identified as such by the people. It is interesting to consider how best the law can be amended, or fresh legislation passed, to give overriding powers to these magistrates appointed by the Centre, but this would be outside the scope of this Article. I merely record my personal view that the necessary changes can probably be brought about without disturbing the normal functioning of the district authorities working under the overall charge of the State Government.*

*In this connection, Article 247 is relevant. It reads as follows:

247. "Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing laws with respect to a matter enumerated in the Union List."

The need for the legislation suggested in an earlier paragraph beginning with 'The next step is to pass laws . . .' sub-paragraphs (b) and (c) is fairly self-evident and needs no elaboration.

While it is quite clear that the Union has overriding powers and duties in the matter of maintenance of law and order, it is equally clear that its intervention should take place only rarely and in extreme cases. Also, its intervention should be withdrawn at the earliest possible moment. There are sometimes counsels of extreme caution because no one can really be sure when Union's intervention can be safely withdrawn. But the decision should be to withdraw as soon as order is restored.

The reason is that in a very large country like India, Government is best carried on by sharing power with smaller units throughout the country, otherwise the feeling of participation and local responsibility is lost. Further, law and order is best maintained by the people themselves. Sometimes, organised forces have to step in, but they too can only function with the broad support of the people. It has been found by experience that the people by and large tend to support the local forces—the ones with whom they are daily in touch and whose ways they have come to understand. In cases of emergency and where the local forces are unable to act, they welcome intervention by more distant forces like the State Armed Constabulary or the armed forces of the Union Government, but the support of the people to these forces tends to fade the moment the emergency is over. They are then looked upon as burdensome intruders and interlopers. Thus, the force which should, as far as possible, first be used in the maintenance of law and order, is the Home Guards or similar formations. Next should come the civil police, followed by the armed police, then the State Armed Constabulary, then the armed police force belonging to the Union and last of all the Military.

My personal experience is that if the Home Guards and State Police are used promptly and with determination, there is no need whatever to call in the Army, and I have never done so myself. In this connection, I recall Pandit Govind Ballabh Pant's oft-repeated desire that the Army should never be called in, to the aid of the civil power for the maintenance of law and order. In fact, in U.P. the Army has almost never been called for this purpose after 1949 or so.

The next point is the conflicts which may arise between the States and the Union regarding maintenance of law and order. Such conflicts are particularly likely when Union property, such as railways, post offices, radio stations, Army and Central Reserve Police barracks, and Union Government's public sector projects are subjected to mob violence.

In almost every such case, State Governments give protection by

their own forces or readily ask for Union Government's help to supplement their forces. However, situations do arise where the State Government is unable or unwilling to give protection. In such an eventuality, two alternatives are open to the Union. One is to issue a directive under Article 256 and simultaneously to take action under Article 355 by stationing its own armed forces to protect its property. The State may either obey the directive and call for help from the Union or it may refuse to obey, in which case Article 356* which brings about Presidential rule in the State comes into play. However, the Union can, even without invoking Article 356, direct its armed police forces or the military to protect its installations by virtue of Article 355.

Cases may also arise where the State uses its powers to stop the functioning of a Union Government's installation. This can be done either by the use of police force or by an 'order' under Section 144 Cr. P.C. In fact, one such case, where a magistrate (acting probably with the knowledge of the State Government) passed such an order, has come to notice. However, such an order whether under Section 144 Cr.P.C. or otherwise is unconstitutional and void *ab initio*. Therefore, an officer in charge of a Union Government installation can and should reject this order and carry on. Then, if the authority which passes such an order decides to enforce it, it will be doing so at great peril to itself and the State.

*Article 356 reads : "(1) If the President on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by Proclamation—

- (a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or any body or authority in the State other than the Legislature of the State;
- (b) declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;
- (c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State;

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court or to suspend in whole or in part the operation of any provision of this Constitution relating to High Courts."

COMMENT**G. C. Singhvi**

"The relations between the Centre and the States in the field of law and order", to repeat the expression employed by the Administrative Reforms Commission in their report on Centre-State Relationships "have generated an acute controversy in recent months". Naturally, therefore, a learned and illuminating discourse on the administrative and legal aspects of the matter like the one presented by Shri Dass is most welcome.

Particularly appealing are three very pertinent observations made by Shri Dass. They are:

- (1) "It should be noted here that the armed forces of the Union include not only the military (Army, Navy and the Air Force) but also its armed police forces, such as the Central Reserve Police, and the Border Security Force" (p. 208).¹
- (2) Apropos the Union's intervention in law and order matters in States, Shri Dass says that it "should take place only rarely and in extreme cases" and also that it "should be withdrawn at the earliest possible moment" (p. 210).²
- (3) "Thus, the force which should, as far as possible, first be used in the maintenance of law and order is the Home Guards or similar formations. Next should come the civil police, followed by the armed police, then the State Armed Constabulary, then the armed police force belonging to the Union and last of all the Military" (p. 210).³

While the author deserves to be congratulated for highlighting the above well-known and almost axiomatic truths which, unfortunately, are little recognised and still less pursued, it shall, with due deference to the author, have to be conceded that some of the medicines,

¹This observation owes its origin to the fact that "Naval, Military and Air Forces; and any other armed forces of the Union" forms Item 2 of the Union List in the Constitution of India. The CRP and BSF, being the armed police forces of the Union, fall in the domain of the 'Union List'.

²This indeed is a wise counsel of caution. For the Centre's intervention in State's affairs should be the minimum necessary and not the maximum possible.

³"Delegation of authority, however temporary, by a Civilian government to the army ...if resorted to often denigrates the notion of civilian government and may finally erode it"—Frank Moraes in the *Indian Express*.

which he has prescribed, appear to be too strong for the ailment they are supposed to cure.⁴

Adverting to legislation for coordinating the powers of the Union with provisions of the Code of Criminal Procedure, the author contemplates two lines of action comprising "either to remove the Union forces from the jurisdiction of local magistrates or to empower the Union to appoint magistrates whose orders would override those of the senior-most magistrate of the State Government". And the author is "not in favour of the first alternative" (p. 209). Frankly speaking, both the alternatives when pursued are likely to undermine the authority of the State Governments and would not be in consonance with either the letter or the spirit of the Constitution of India according to which the subjects 'public order' (but not including the use of naval, military, and air forces of the Union in aid of the civil power), 'police' (including railway and village police) and 'administration of justice' pertain to the 'State List' of the Constitution. What needs be viewed with considerable circumspection is the fact that the Union's armed forces come to the aid of the civil power of the States,⁵ and as such are and shall have to be subject to the jurisdiction of the local magistrates of the States. Similarly, vesting of magisterial powers in individual officers also is and shall continue to be within the domain and competence of the State Governments only.⁶

The author, further, pleads that "the Union can, even without invoking Article 356, direct its armed police forces or the military to protect its installations by virtue of Article 355" (p. 211). 'Property of the Union' is a Union list subject (Item 32) but as regards property situated in a State, the power to legislate is subject to legislation by the State save insofar as parliament by law otherwise provides. Therefore, undeniably, the Union can, by law, make due provision for the protection of its property as contemplated by Item 32 of the Union List. The moot point which needs be underscored, however, is, how does this power vest in the Union by virtue of Article 355 of the Constitution of India as indicated in the Article.⁷

⁴For, in reality, a State can afford to defy the Union only to the extent for political or other reasons, as may be tolerated or condoned by the Union.

⁵Even the Parliamentary legislation envisaged by Shri Dass (p. 209) shall have to restrict itself to legislating on the use of the armed forces of the Union in aid of the civil power of the State Governments.

⁶Things would naturally and understandably be entirely different if the subjects 'public order', 'police', and 'administration of justice' are decided to be transferred from the 'State List' to the 'Union List'.

⁷Article 355 of the Constitution of India merely lays down a duty of the Union to protect every State against external aggression and internal disturbance as also to ensure that the government of every State is carried on in accordance with the provisions of the Constitution. It is, thus, a duty which has been cast upon the Union.

"Cases may also arise", the author further argues, "where the State uses its powers to stop the functioning of the Union Government's installations. This can be done either by the use of police force or by an 'order' under Section 144 of Cr.P.C.... However, such an order whether under Section 144 of Cr.P.C. or otherwise is unconstitutional and void *ab initio*. Therefore, an officer incharge of a Union Government installation can and should reject this order and carry on" (p. 211). I am afraid, if the officers incharge of Union's installations resort to such flouting of legal authority of the States, they would do so at their own peril.⁸

What inevitably follows, therefore, is that as long as the subjects 'public order', 'police' and 'administration of justice' continue to adorn the State list, 'prevention and detection of offenders,' 'prosecution of offenders' and 'maintenance of public order (peace and tranquillity)' shall be the primary duty and responsibility of the States. To discharge this duty and responsibility—onerous as it is—the States have been vested with corresponding rights and powers also. And, the Union should not hobnob with these rights and powers for, in that event, it would adversely reflect upon the discharge of the duties and the responsibilities by the States in this behalf. Such overtures are moreover likely to erode the authority of the States which will do nobody any good. If, however, the Union finds that a truant State is not 'behaving', they have more than adequate provisions in the Constitution which could be invoked to set such a State right. These provisions are:

- (1) The Union could issue necessary directions to a State for exercising its (State's) executive power in such a manner: (i) as to ensure compliance with Parliamentary legislation and any existing law applying to that State (Article 256), and (ii) as not to impede or prejudice the exercise of the executive power of the Union [Article 257 (i)]. Similar powers of issuing directions are available to the Union in regard to measures to be taken for protection of the railways [Article 257(3)] as also in regard to construction and maintenance of communications declared to be of national or military importance [Article 257(2)]. Perhaps, it is time the scope of paras 2 and 3 of Article 257 is so enlarged as broadly but specifically to cover protection of Union's property, offices, public sector project, and, above all, personnel posted therein.
- (2) The Union could also consider issuing proclamation of emer-

⁸Such an action would not be in keeping with the concept of the 'Rule of Law' which governs our free society, would most certainly render the individuals taking law into their own hands liable to face unpalatable legal consequences and finally would, in no insignificant way, contribute its mite to confusion.

gency in any part (say a State) of the territory of India (Article 352 of the Constitution). The effect of proclamation of emergency will be that the writ of the Union would extend giving directions to the State as to the manner in which the executive power thereof is to be exercised. Similarly, the Parliament will also have a power to make laws on any subject notwithstanding that it is the one which is not enumerated in the Union List (Article 353 of the Constitution). Thus, by resorting to proclamation of emergency which essentially is a Union's prerogative (and an overriding power), the Union can protect even a non-cooperative or recalcitrant State from internal disturbances, etc.

- (3) Article 365 provides that where a State defaults in complying with any directions given in the exercise of the executive power of the Union on the above mentioned matters, the President may declare that the Government of the State cannot be carried on in accordance with the provisions of the Constitution. The emergency provisions of Article 356, applicable in case of failure of constitutional machinery in the States, can then be brought into force. Thus, consequence of disobedience or non-compliance with the directions of the Centre by a State is the assumption of the governance of the State by the President.⁹

With these identified, potent and powerful constitutional weapons¹⁰ available in the armoury of the Union, one would be inclined to think that any further addition is hardly called for. The Administrative Reforms Commission have also not been in "favour of establishing alternative machinery for ensuring compliance with" the Union Government's orders by the State Governments "or for the running of its writ without resorting to or making use of the State Government's machinery". This predictably would "not only entail enormous increase in expenditure but also act as a constant irritant" between the Union and the State authorities, which will not be conducive to ensuring cordial, fruitful and harmonious relations between the Union and the States.

⁹Administrative Reforms Commission (Government of India), Report on Centre-State Relationships, Delhi, Manager of Publications, Government of India, 1969, p. 37.

¹⁰In the fitness of things, the use of these weapons should be very rare and always be preceded by consultation, discussion and persuasion.

AUTHOR'S REJOINDER

The first point made by the writer is that since magistrates appointed by the Centre would not be answerable to the State Governments, this would undermine the authority of the latter. I feel that since the Union has overriding powers and duties to maintain law and order, the authority of the State Governments is already subordinate to that of the Centre. Provided the Centre uses its powers with tact and discretion, friction should not arise.

The second point made by the comment writer is that Article 355 does not empower the Union to direct its armed police force or the military to protect its installations. A reading of Article 355 shows that the Union has this power. It reads:

It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution.

Both external aggression and internal disturbance imply the use of force. To protect the State against force, some counter-force must be used, and as Shri Singhvi points out, this duty has been cast upon the Centre. Therefore, it is the Centre's forces that have to be employed in case the State is unable to or fails to fulfil its duties.

The third point made by the writer is that an officer in charge of Union Government installations should not reject an order which is void *ab initio*. There are numerous judicial and other pronouncements all over the world to the effect that it is the right of every citizen to resist illegal orders. This has been again forcefully brought out in the My Lai massacre case. Much more is it the duty of an officer of the Central Government when that Government is itself responsible for ensuring that the work is carried on according to the Constitution. To take an extreme example, suppose, during war time, a magistrate passes an order which causes some armament factory to shut down. What advice would the comment writer give in such a situation?

Apparently, the comment writer's view is that the provisions of Article 365 should be invoked. It may not always be possible or expedient or necessary to resort to this Article when lesser remedies are available. This is in keeping with the axiom that the minimum force shall be used to attain the desired object.

Police Administration and Centre-State Relations in India*

Amal Ray

IN A political system, where the rival claims of federalism and development have to be accommodated, there is a continuous need for mutual adjustment of relations of the national and the regional governments. Such adjustment cannot obviously assume the form of 'authoritarian prescription'.¹ Except where the jurisdiction of a government is clearly defined, the authoritarian prescription is apt to breed enormous strains in the working of federal structure particularly where the alignment of political forces has a certain regional slant. In India an important reason why the actual operational relations between the Centre and the State frequently come under acute stress, whenever a competitive multiparty system emerges, has been the frequent use of authoritarian prescriptions in areas where New Delhi's authority does not clearly rest on any constitutional sanction. An important case study in this connection is provided by police administration.

An overview of the relevant constitutional provisions is likely to provide an appropriate setting for the case study.

The seventh schedule to the Constitution makes a clear demarcation of the operational areas of the Centre and the State. Item 1 of list II vests in the States the exclusive authority in regard to 'public order'. The Centre cannot claim any share in it. Actually at the time of the constitution-making an unsuccessful attempt was made to transfer 'public order' to the Central list. Brajeshwar Prasad, through an amendment, sought to give the Centre the power for protection of public order. He argued: "There are dangers within and without, and we cannot depend upon the loyalty of the provincial administration in times of crisis. Centrifugal forces have been the base of our political life since the dawn of history. I, therefore, urge that public

*From *Indian Journal of Public Administration*, Vol. XXIV, No. 1, 1978, pp. 38-44.

¹Charles Lindblom, *The Intelligence of Democracy : Decision-Making Through Mutual Adjustment*, New York, 1965, pp. 76-77.

order should become Central subject."² Ambedkar and others, resisted this attempt, and the amendment was lost. Discussions in the Constituent Assembly on this issue would unmistakably show that the makers did not envisage any Central machinery for the protection of law and order. The States are in charge of public order, and there cannot be two parallel agencies in this sector.

About the protection of Central property also the makers had no doubt. According to them, it would fall within the constitutionally delimited sphere of the States. The protection of property, in their view, is simply a police function. Ambedkar's statement on the scope of Article 257(3) is in this connection revealing. He said: "All police, first of all, are in the list II (State list). Consequently, the protection of railway property also lies within the field of State Governments. It was felt that in particular cases the Union might desire that the property of the railway should be protected by taking special measures by the State and for that purpose the Centre now seeks to be endowed with power to give directions in that behalf."³ It is thus found that the intention of the Constitution makers was to vest in the State the exclusive right for the protection of Central property in the State, and at the same time, to endow the Centre with the necessary directive power. The directives are binding upon the States, since their violation by any State would empower the Central Government to call into operation the coercive measures contained in Article 356.

Thus there is no ambiguity in regard to the basic constitutional scheme. The police and the public order are State subjects, and the Centre has no direct operational authority in this sphere. The only fetter on State autonomy in this regard emanates from Centre's directive power.

ROLE OF CENTRE IN POLICE ADMINISTRATION

However, the police administration in India does not in practice conform to this basic constitutional scheme. The constitutional provisions notwithstanding, the Centre has come to play a significant role in an essentially State sphere. The role has taken various forms. First, the Centre has an important coordination role. The coordination wing of the Central Bureau of Investigation, for instance, is responsible for collection and dissemination of information relating to the police all over the country. Secondly, the Centre has an important developmental role. Besides research on the organisation of policing, the Centre assists the States in modernisation and development of their police forces. The scheme of modernisation has been in operation since

²*Constituent Assembly Debates*, Vol. IX, pp. 864-865.

³*Ibid.*, Vol. X, p. 1185.

1969-70, and, in the beginning, assistance extended under the scheme to the States comprised 75 per cent in the form of loan and 25 per cent in the shape of grant. However, following the recommendation of the Sixth Finance Commission the pattern of assistance has been changed to 50 per cent loan and 50 per cent grant.⁴ Thirdly, and more importantly, the Centre has set up its own field units to perform police functions. In this connection one can mention the Border Security Force (BSF), the Central Reserve Police Force (CRPF) and the Central Industrial Security Force (CISF). Of the three forces the last one is a watch and ward force which has been put in many public sector undertakings. The first two are intended to assist the States in the maintenance of law and order. Of them the CRPF has sometimes been the bone of contention between the Centre and the States, and serious consequences have ensued.

CENTRAL RESERVE POLICE FORCE

To understand the nature of Centre-State controversy in the area of police administration, it is possibly most convenient to concentrate on the role and the status of the CRPF. This is mainly because case materials are in this regard available. It is necessary at this point to trace the origins of the CRPF. The CRPF, formerly known as the Crown Representative's Police, was first raised in 1939 with a strength of one battalion for helping the former Indian States in the protection of law and order. Since then the Force has travelled a long way. In 1949 a legal footing was given to it. The legality of the CRPF is derived from a certain legislation known as the Central Reserve Police Force Act, 1949.⁵ Section 1(2) says that the Act "extends to the whole of India". Thus no part of the country is free from the jurisdiction of the legislation. Section 18(1) provides that "The Central Government may, by notification in the official gazette, make rules for carrying out the purposes of this Act." Pursuant to the powers conferred by Section 18(1), the Union Government made rules known as the Central Reserve Police Force Rules, 1955.⁶ Rule 25(a), which lays down the 'primary duty' of the CRPF states, "Members of the force may be employed in any part of the Indian Union for the restoration and maintenance of law and order, and for any other purpose as directed by the Central Government." Thus the CRPF has been assigned a wide field of operation. The Centre then has the unfettered right to deploy the CRPF in any constituent State. Moreover, it is the discretion of the Central Government to determine the purposes for

⁴*Report (1973-74 and 1974-75), Ministry of Home Affairs, Government of India.*

⁵*India Code, Vol. 1, Part VIII.*

⁶*The Gazette of India, March 5, 1955.*

which the CRPF may be used. This force was, however, raised to help the States in protecting law and order whenever they found their own contingents insufficient for the purpose. And the intention was never to use the CRPF against the express wishes of a State Government, the safeguarding of law and order, including protection of property, being a State subject. From the beginning, the States were given the impression that the CRPF would supplement, and never supplant, the State police in any law and order situation.

The CRPF set-up comprises a Director General at the summit, who is helped by three Inspectors-General, each being assigned the charge of a sector, and a number of Range Deputy Inspectors-General. In course of time there occurred considerable enlargement of CRPF and their deployment throughout the country. It has now a sanctioned strength of 60 battalions.⁷ Two factors helped the process. First, the States were increasingly finding their meagre resources inadequate for augmenting their own police force to cope with emergency law and order situations such as widespread linguistic agitations and communal disturbances and later political movements. Naturally they encouraged the Centre to increase the strength of the CRPF so that their own police force might be supplemented. Their motive was to shift in this way to the Central exchequer a portion of their police expenditure. The Centre, also to prevent the involvement of the army except for strictly defence purposes, came to support the idea of the proliferation of their own police force. Secondly, the uni-party rule all over the country served to bring about an identity of their views. Any significant dilution of States autonomy was not controverted, because at that time both the Central and the State Governments were parts of a single, unified political machine.

CENTRE-STATE CONTROVERSY IN THE SIXTIES

However, the events in the past show that whenever the one party dominance system is replaced by a competitive multiparty system, there arises certain resistance to the indiscriminate use of the CRPF. This resistance becomes sharper and more vocal in the States where an important segment of ideology of the inter-party coalition or of its dominant partners is directed towards radical mobilisation of regional demands. It is further seen that the ruling class at the Centre has in the past sought to meet the challenge by opting for greater authoritative prescriptions. The relevant case is in this connection provided by the intense Centre-State controversy in late 1960s on the role and use of the CRPF.⁸

⁷Report (1974-75), Ministry of Home Affairs, Government of India.

⁸Amal Ray, "Union-State Relations in India" in S. N. Jain, *et. al.* (eds.), *The Union and the States*, Delhi, 1972.

In September 1968, at the time of the Central Government employees' strike in Kerala, the Centre sent the CRPF units to Kerala for protection of its offices and property there. Since no consent of the State authorities was sought, Namboodiripad, the then chief minister, considered the Centre's action an encroachment upon the State jurisdiction. Chavan, however, justified the legality of such action through an insistence on written law. It was further explained that in this particular case the attitude of the State Government towards the problem of maintaining law and order in connection with the agitation of the government employees had left no option but to deploy the CRPF without previous intimation to the State Government.⁹ A more serious Centre-State confrontation occurred when on March 24, 1969, the CRPF fired at a mob in the administrative building of the Durgapur steel plant, as a result of which sixty people were injured. The then West Bengal home minister, Jyoti Basu, sharply reacted to the Central police action and urged the withdrawal of all CRPF units from the State. He argued that the maintenance of law and order, including the protection of all types of property—Central, State and private—was within the constitutionally delimited jurisdiction of the State Government. As Basu bluntly said, "There cannot be two parallel forces in the State." The action of the CRPF was, however, justified by the Union home ministry on the ground that the Central police had to move into action, because the local police, who were informed earlier by the steel plant management, expressed their difficulties in providing protection. The then Union minister of State for home, Shukla, explaining the government's policy in the Rajya Sabha on March 26, said that although normally the protection of Central property came within the constitutional jurisdiction of the State Government, when it was not available, it was the duty of the Centre to make alternative arrangements for protection.¹⁰ However, the statement did not mention whether the steel management had approached the State home ministry for protection of its property when the local police expressed their inability in this matter. On the same date in the Lok Sabha the Union home minister, Chavan, asserted the right of the Centre to deploy the CRPF in all parts of India, and said that no State Government could ask for their withdrawal from its territory. He further observed that the CRPF had the responsibility to safeguard Central property.

CENTRE-STATE RELATIONS IN THE SEVENTIES

However, the Centre-State controversy on the use of the CRPF in

⁹*The Indian Express*, September 17-25, 1968.

¹⁰*The Statesman*, March 27, 1969.

States became eventually inconspicuous with the restoration of the one party system in the early 1970s. While in the 1971 Lok Sabha elections the ruling Congress secured a thumping majority, this trend was reinforced in the 1972 State Assembly elections. In the succeeding years there occurred further growth of Central power and increasing deployment in the States of the CRPF. As the economic situation worsened and the protest movements intensified in various parts of the country, more extensive use of the CRPF took place. This emphasised the need for its further enlargement. Actually its strength increased from 51 battalions in 1969 to 60 battalions in 1975.¹¹ The propriety of the Central actions in this regard was not questioned by any State Government mainly because of two reasons. First, the then prevalent unitary power structure, with the Prime Minister occupying the pivotal position in it, precluded the possibility of any resistance arising at the regional level of the federal system. Secondly, the State Governments themselves were constrained to increasingly rely on the CRPF for meeting the challenge of mass movements.

From 1974 onwards there occurred a quick succession of events culminating in the imposition of internal emergency. All this is too familiar to merit any repetition. One of the important intentions of the authors of the 42nd Amendment, which was pushed through during the emergency, was to make use of the Centre's power beyond the arena of any controversy. The Centre assumed powers to unilaterally deploy its forces like the CRPF and the Border Security Forces in any part of the country. Thus the States were denied even the elementary right of being consulted in an area where their supremacy under the terms of the original Constitution was not in doubt.

POST-1977 ELECTION SITUATION

A new equation of political forces has been brought into existence by the 1977 elections. While the Janata party, which is in power at the Centre and in several States, is committed to the concept of regional autonomy, some State Governments such as the CPI(M)-dominated Government in West Bengal and the ADMK Government in Tamil Nadu have been emphasising the need for limiting the authority of the Centre in this regard. In view of all this, the Central Cabinet has recently taken an important decision that the Centre will no longer deploy its police forces in affected areas without the consent of the State Governments concerned. This decision is intended to be implemented through an amendment of Article 257-A.¹²

This decision of the Centre aims at removing a major irritant in

¹¹*Report (1968-69) and Report (1974-75)*, Ministry of Home Affairs, Government of India.

¹²*The Indian Express*, October 22, 1977.

the hitherto Centre-State relations in India, and is, therefore, likely to have an important bearing on the federalising process. The constellation of circumstances leading to the rise of the Janata Party and the nature of electoral elements responsible for its victory as well as the victory of other parties in some States, provide the main explanation for the decision. First, the leaders of the Janata Party, irrespective of their ideological labels, equally suffered during the last few years of an enormously heightened Central authority. Naturally, therefore, they are eager to ensure through constitutional amendments that the rule of tyranny does not recur. Secondly, the support base of the Janata party as well as that of the CPI(M) and the ADMK has a pronounced regional slant. An important segment of the electoral support for the Janata is derived from the locally oriented interest groups such as small merchants and traders, and land owners. Similarly, the support base for the CPI(M) and the ADMK is mainly regional. All this is bound to exercise an important influence in the direction of strengthening the regional level of India's federal system.

CONCLUSION

The foregoing case study serves to emphasise the peculiarities of the federalising process in Indian setting, and highlights the importance of consultative agreement as an instrument for mitigating tension in Centre-State relations. In a society where territorial boundaries and social groupings coincide, and a significant segment of support for the political system emanates from the locally oriented interest groups, there is a compelling need for careful handling of federal disputes. This is more so in case of twilight areas where the authority of the Centre is not precisely defined.

The social setting of Indian federalism has in-built strains which stem from territorially grouped regional diversities mainly based upon linguistic and cultural particularisms. During the greater part of India's federalising experience the innate strains of the setting were, however, overlaid by the one party dominance system. Even under it whenever there occurred dispersion of power, the federal strains came into open. The Centre-State relations in the last years of Nehru are in this connection illustrative.¹³ And, when the one party dominance system was replaced in late 1960s by a political party system of diverse hues and complexions, the strains erupted in an acute form and there took place significant Centre-State confrontations.¹⁴

¹³Michael Brecher, *Succession in India*, London, 1966, p. 136.

¹⁴See, in this connection, Amal Ray, *Inter-Governmental Relations in India*, Bombay, 1967; and *Tension Areas in India's Federal System*, Calcutta, 1971.

In the new context of political forces unleashed by the 1977 elections the simmering discontent of the States, particularly of West Bengal, is found mounting. The issues involved are many and varied, and include administration, finance and planning. The situation calls for a series of consultative agreements in sensitive areas of Centre-State relations. A somewhat decentralised structuring of political forces in the Janata party and the common anger of the Janata and the CPI(M) against the Congress party are likely to lead to a meaningful search for maximal agreement between the governments. Actually, there are some constitutional techniques available to the policy makers in India for facilitating inter-level consultation and cooperation. During the period of one party dominance system these techniques were pushed into the limbo of obscurity. In the newly emergent competitive multiparty system the paramount need is to invigorate and use them in reconciling the aims of federalism and development.

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Union-State Relationship in Agricultural Administration*

S.S. Puri

IN THE late fifties and the entire decade of the sixties agricultural administration was often the whipping boy for those who were dissatisfied with the growth of the agricultural economy in India. In 1958, the Agricultural Administration Committee characterised 'administrative lapses' as a 'universal' feature of implementation of agricultural schemes and concluded that this had "directly caused shortfalls in production."¹ Again, in 1963, a high-level Working Group opined that "unsatisfactory administrative and organisational arrangements was, by far, the most important single factor responsible for inadequate progress in the sphere of agricultural production."² More recently, in 1969, the Expert Committee on Assessment and Evaluation of the Intensive Agricultural District Programme has referred to the administrative system as "a major constraint on agricultural production."³

Administration of agricultural development programmes, as in the case of administration in several other spheres, still continues to exhibit a variety of inadequacies, particularly at district, block and village levels. However, at the State and the national levels, concerted efforts have been made in recent years to strengthen and streamline the administrative machinery dealing with agricultural programmes. Even more significant than that is the fact that certain deliberate efforts have been made to evolve new devices for facilitating a purposeful collaboration between the Union and the States. It is the purpose of the article to identify some of these devices and to throw light on their effectiveness.

*From *Indian Journal of Public Administration*, Vol. XVI, No. 3, 1970, pp. 357-60.

¹Report of the Agricultural Administration Committee, 1958, p. 4.

²The Report of Working Group on Inter-departmental and Institutional Coordinate for Agricultural Production, 1963, p. 1.

³Report of the Intensive Agricultural District Programme, 1968-69, Vol. 1, p. 23,

According to the Report of the Study Team on Centre-State Relationship, set up by Administrative Reforms Commission, "no well-understood or well-articulated strategy on Centre-State Relationship is observable".⁴ The main thesis of this article is that such hypothesis is questionable insofar as agricultural administration is concerned. An effort has been made in this article, in the first instance, to bring out how the legal position under the Constitution has been evolved in order to allow emergence of a collaborative relationship between the Union and the States. The subsequent part of the article deals with a few examples of the administrative devices that have been worked out. Finally, certain broad conclusions have been drawn about the future possibilities.

THE CONSTITUTIONAL POSITION

In a discussion on Union-State relationship, one has to keep in view the fact that agriculture in India is a State subject. The purpose of throwing in this observation differs from one group to another. For some, particularly those connected with the Union level administration, it may be a convenient way of identifying an alibi for ineffectiveness of an agricultural development programme sponsored by the Union. For another group, representing the States, it helps to serve as a caution to the Union officials who may sometimes be prone to be too meddling. Finally, for some exponents of public administration, the observation signifies a serious hurdle in the way of effective agricultural planning and progress in India. Illustrative of this view is the following extract from Paul Appleby's Report: "Neither agriculture nor fisheries has greater local significance than national, if as much. In a nation dedicated to the welfare state ideal, the food supply and the welfare of farm families are inescapable national responsibilities....Almost all economic activities are carried on in localities, but this fact does not make their significance local. The constitutional effort to specify scopes of national and state powers so precisely would appear to raise the most serious barriers before national needs to develop and execute national programmes in the interests of the national economy and the national public."

On a close analysis, it seems that the various points of view mentioned above do not represent an adequate appreciation of the constitutional position in India. This position has not been static but has undergone some vital changes during the last two decades. In the constitution, as it stood originally, the entries relating to agricultural and allied sectors were provided in the State list. As regards the Union,

⁴*Report of the Study Team on Centre-State Relationships*, Administrative Reforms Commission Vol. 1, 1967, p. 9,

the Constitution did not, in express terms, confer any powers to deal with agriculture. However, in the Union and the Concurrent lists, there were a number of provisions which authorised Union action in the sphere of agriculture. Furthermore, during the decade of the fifties by a constitutional amendment, a new Entry No. 33 was inserted in the Concurrent list to the following effect:

Trade and commerce in, and the production, supply and distribution of:

- (a) the products of any industry where the control of such industry by the Union is declared by parliament by law to be expedient in the public interest, and imported goods of the same kind;
- (b) food-stuffs, including edible oilseeds and oil;
- (c) cattle fodders, including oilcakes and concentrates;
- (d) raw cotton, whether ginned or unginned and cottonseed; and
- (e) raw jute.

The above mentioned provision, it will be observed, is indeed very wide in scope. Coupled with the fact that the subject of economic planning is also in the Concurrent list, it is obvious that, under the Indian Constitution, the Union has been given a significant *locus standi* in the sphere of food and agricultural development.

Before concluding the discussion on constitutional relationship between the Union and the States in regard to agricultural and allied sectors, it seems necessary to take cognisance of the following observations made by the study team of the Administrative Reforms Commission:

By a constitutional amendment (Entry 33 in List III) the production, among other activities, of foodstuffs (including edible oilseeds and oils), cattle fodder, raw cotton and raw jute has become a concurrent subject. These items together form much the largest part of agricultural produce. If the word 'production' occurring in this entry has to be given a wide import, agriculture for the most part must be deemed to have become a concurrent subject. In that case the amendment of this entry has introduced an element of confusion in that Entry 14 in List II reading "Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases" has not been amended. If the term 'production' is to carry a limited import, it is not clear at all what that limitation is. The confusion needs to be resolved through a parliamentary review so that responsibility is clearly

defined. It appears to us that agriculture should administratively be treated as a State subject and that central encroachment in the shape of the assumption of responsibility for substantive activity should not be permissible. However, considering the importance of agriculture to the national economy, the Centre should have the right to lay down overall policies and, if necessary, legislate for them.⁵

It seems difficult to subscribe to the above approach to the subject of agricultural administration. It is hardly permissible to take on *a priori* view whether agriculture should administratively be treated as a State subject or as Union subject or as a Concurrent subject. The fact of the matter remains that the Indian Constitution does have an explicit entry in the Concurrent list empowering the Union to intervene both in production, and supply and distribution of a whole range of important agricultural commodities. This entry was made by a specific amendment to the Constitution. Hence, it is tenable to conclude that the Constitutional provisions are flexible and they allow a variety of permutations and combinations in the relationship between the Union and the States with regard to agricultural development. It is also pertinent to add here that even the study team cited above has conceded the need for the Union being given the power to lay down overall policies and, if necessary, to legislate for them.

DEVICES FOR COLLABORATION

Agricultural Produce (Development and Warehousing Corporations) Act, 1956

One of the significant steps in the evolution of the Union-State relationship on a new collaborative basis was taken when, in 1956, the Parliament enacted the Agricultural Produce Development and Warehousing Act. The Act sought to give effect to certain important recommendations made by the All-India Rural Credit Survey Report. The Act provided for the establishment of a National Cooperative Development and Warehousing Board, and a Centre Warehousing Corporation. There were also enabling provisions for establishment of State Warehousing Corporations. For enacting this legislation, Entry 33 in the Concurrent list (cited earlier) was invoked. The statute accordingly laid down that the main functions of National Cooperative Development and Warehousing Board would be to plan and promote programmes for the production, processing, marketing, storage, export and import of agricultural produce (as defined in

⁵*Report of the Study Team on Centre-State Relationships, Administrative Reforms Commission, Vol. 1, 1967, p. 164.*

Entry 33) through cooperative societies.

The establishment of National Cooperative Development and Warehousing Board was, in many ways, a significant administrative innovation. In the first place, it created a statutory agency at the Union level in the sphere of cooperation. It was provided with a corpus of fund called the National Cooperative Development Fund. Finally, the membership of the Board included non-official co-operators appointed by the Union Government out of a panel of names recommended by State Governments. Thus, a significant inbuilt measure of Union collaboration was included in the statute itself.

The Act of 1956 was also remarkable in another way. The Act provided for the establishment of a Central Warehousing Corporation as a subsidiary of the National Cooperative Development and Warehousing Board. It also provided for the constitution of State Warehousing Corporations in which the Central Warehousing Corporation was to be a shareholder along with the concerned State Government. Thus, in a commercial enterprise, the concept of a partnership between the State and the Union was given explicit legal recognition. This concept has served a variety of useful purposes. Firstly, it has enabled the State Government enterprises to receive equity capital from a Union Government undertaking. Secondly, it has helped to foster an integrated and cooperative approach in the location and operation of warehouses. While the Central Warehousing Corporation has undertaken warehousing activities in the bigger market centres, the State Warehouses, which are smaller in size, have been located at other places. Finally, this arrangement has helped in the development of warehousing movement under the unified leadership of Union agency which has provided both financial and technical support to the State agencies.

The administrative relationship between Central Warehousing Corporation and the various State Warehousing Corporations provides an interesting insight into Union-State relationship conceived in a collaborative setting. Legally, the State Warehousing Corporations are in subordination to the Central Warehousing Corporation. The latter holds 50 per cent of the shares and nominates half the number of members of the board of each State Warehousing Corporation. It also has the right to approve the budget and the programme of activities of a State Warehousing Corporation. The appointment of chairmen and the managing directors of the State Warehousing Corporations is also subject to the approval of the Central Warehousing Corporation. However, in actual practice, the State Warehousing Corporations have enjoyed a large measure of autonomy. The State Governments' proposals for appointment of chairmen and managing directors of the State Warehousing Corporations are usually accepted

in a routine course. Similarly, the nominees of the Central Warehousing Corporation are largely a set of directors proposed by the State Governments. The State Warehousing Corporation, thus remains essentially a State Government enterprise even though a Union agency has certain reserved powers of intervention in its capacity as a major shareholder.

Agro-Industries Corporations

The device of Union collaborating with a State enterprise was followed up when the idea of agro-industries corporation was conceived in 1964-65. These corporations have now been set up in all States except Nagaland. The Article of Association of these corporations envisaged a wide range of objects. However, essentially, they are concerned with supplying, hiring, and servicing of agricultural machinery. These corporations have been set up as companies registered under the Companies Act. About 50 per cent of their shares are held by the Union Government (by the Department of Agriculture in the Ministry of Food, Agriculture, Community Development & Co-operation) who also have the right to nominate up to three directors. In practice, however, only two directors are usually nominated.

The above-mentioned development, unlike the case of warehousing is not an outcome of a statute but of administrative policy. It embodies the concern of the Union for accelerating the pace of mechanising agriculture without, in any way, diluting the responsibility of the State Governments for undertaking necessary promotional and service functions in respect of agricultural machinery. The agro-industries corporations, thus, represent an interesting step in the evolution of Union-State relationship in the field of those programmes of agricultural development which are capable of being run on commercial lines.

Slaughter House Corporations

Establishment of modern slaughter houses is an important programme included in the Fourth Five Year Plan relating to animal husbandry. The Plan envisages establishment of modern slaughter houses in 14 major towns. A beginning is being made in this direction by first modern slaughter house in Bangalore. The administrative structure adopted in this slaughter house represents a further step in a collaborative relationship between governments at various levels. It is proposed to organise a commercial corporation in which the Union, the State Governments as well as the local municipal corporations will be the shareholders. To a limited extent, both the Union and the State Governments would also participate in management even though primarily the management will be carried on by nominees of the Municipal

Corporations on the board of directors of these Corporations.

All-India Coordinated Research Projects

The preceding examples dealt with cases of collaboration between the Union and the States in regard to agricultural development activities of a commercial or quasi-commercial type. However, in recent years, this concept has also been extended to other spheres, particularly agricultural research. The idea of a coordinated research project involving multi-disciplinary approach and inter-institutional cooperation is now an accepted feature of the pattern of agricultural research in the country. This idea was tried out as early as 1957, when a coordinated maize breeding programme was initiated. Since 1965, a systematic effort has been made to formulate other coordinated projects. It is estimated that during the Fourth Plan about 72 All-India coordinated research projects on various crops as well as various identified subjects will be in operation. Each of these projects envisages research scientists in the Central and State Institutes as well as agricultural universities working as a team with a project coordinator appointed by Indian Council of Agricultural Research, acting as a research leader fostering cooperation and coordination of research carried out by various participating institutions.

Small Farmers Development Agencies

Perhaps the latest experiment in the sphere of Union-State partnership in administration of agricultural development programmes is provided by the projects for development of small farmers. In the Fourth Plan, a number of such projects have been envisaged, each involving an outlay of about Rs. 1.5 crores. The funds for this purpose are being provided by the Union Government. However, the actual implementation of the programme vests, in each district, in a small farmers development agency, which is a society incorporated under the Societies Registration Act. The local district collector is usually the chairman and most of the other members of the managing committee are officials of the State Government posted at the district level. The Union is represented on the small farmers development agency by not more than two of its nominees.

From the administrative point of view, the small farmers development agency represents a very interesting experiment of collaboration between the Union and the States in undertaking a very complex and difficult programme. The formulation of this programme has itself represented a significant joint effort on the part of the Union and the States. The undertaking of the programme was preceded by a number of studies of the problems of small farmers. Some of these studies were undertaken by State agencies even though at the initiative of the

Union. The information thrown up by these studies and other relevant experiences were kept in view by the Union while formulating the broad guidelines which helped the States to draw detailed schemes for individual projects. The implementation of the projects was also as already stated, a joint effort of the States and the Union, the States naturally playing a more continuous and detailed part in the implementation.

CONCLUSION

Reviewing the relationship between the Union and the States in the sphere of planning on the eve of the present Fourth Five Year Plan, the Study Team of Administrative Reforms Commission observed as follows:

As a result of planning, the three horizontal layers of administration represented by lists of Central, Concurrent and State subjects have been vertically partitioned into Plan and non-Plan sectors and that within the plan world, the compulsions and consequences of planning have tended to unite the three horizontal pieces into a single near-monolithic chunk controlled from the centre.⁶

These observations were made in 1967. Since then, there have been a number of radical changes. The schemewise pattern of Union assistance has been abolished. In the new Fourth Five Year Plan, the Union assistance is distributed among the States on the basis of certain objective criteria and in the form of block loans. At the same time, priority is sought to be ensured for agriculture by treating it as a tied sector.

From what is stated above two parallel tendencies are observable. While the Union's stronghold on individual agricultural programmes has been sought to be removed, its ability to innovate and influence State action in certain spheres has been increased by development of new devices facilitating partnership between the Union and the State agencies. This is a trend which is significant and which holds considerable promise for the future. Agricultural development necessarily involves enmeshing of both local and the national effort. Hence one of the main challenges of agricultural administration lies in evolving ways and means to foster a growing collaboration between governments at the Union, State and local levels. That this is so in other federal countries, as much as in India, is borne out by the following

⁶*Report of the Study Team on Centre-State Relationships, Administrative Reforms Commission, Vol. 1, 1967, p. 95.*

observations made by Rowell-Sirois Commission appointed by the Government of Canada: "In the highly interdependent and complex society of today, with the great expansion of governmental function which has become necessary, efficiency and economy in government cannot be obtained merely by a division of powers between governments. Cooperation in the pursuit of common objects and in the solution of common problems is no less essential."



Union-State Relations in India's Industrial Administration*

N.J. Kamath

THE RELATIONSHIPS between the Centre and the States of the Indian Union cover practically all aspects of administration. No study of these relationships can, therefore, be complete without an analysis of the policy, procedures and problem areas in the field of industry.

INDUSTRIAL POLICY RESOLUTION, 1948

"Real progress must ultimately depend on industrialisation." These were the words with which the late Prime Minister Jawaharlal Nehru sought the mandate of the Indian parliament to take the country forward through an era of industrial development that had been ushered in with the dawn of independence. The first statement of policy issued by the Government of India was the Industrial Policy Resolution, 1948. This emphasised the importance to the economy of securing a continuous increase in production and its equitable distribution and laid down that government must play a progressively active role in the development of industries.

THE INDUSTRIES (DEVELOPMENT & REGULATION) ACT, 1951

The Industries (Development & Regulation) Act which was enacted in 1951 declared that it was expedient in the public interest that the Union should take under its control the industries specified in the first schedule to the Act. The regulation and development of industries specified in this schedule is exercised by the Central Government in whose power it lies to issue the licence for setting up a new undertaking or for a substantial expansion of capacity. The Act also empowers Central Government to control the supply, distribution, price, etc., of

*From *Indian Journal of Public Administration*, Vol. XVI, No. 3, 1970, pp. 385-99.

articles relating to any industry listed in the schedule.

INDUSTRIAL POLICY RESOLUTION, 1956

The acceptance by parliament of a socialistic pattern of society and the completion of the First Five Year Plan were important developments which necessitated a fresh statement of Government of India's policy in regard to industrial development. The result was the Industrial Policy Resolution, 1956 which governs the policy of the Government of India in the matter of development of industries, whether large, medium or small. This Resolution has, *inter alia*, given clear recognition to the important role of small scale industries in the development of the national economy. The small scale sector has been recognised as offering some distinct advantages such as immediate prospects of large scale employment, mobilisation of local resources of capital and skill, more equitable distribution of the national income, etc. By special notifications, however, small scale industries have been exempted from the operation of the Industries (Development & Regulation) Act, 1951 and certain other specific Acts like the Tea Act, 1953, the Coir Act, 1953, Rice Milling Industries (Regulation) Act, 1958, and Sugar (Regulation of Production) Act, 1961. Small scale industries, therefore, remain a State subject while large scale units in the industries listed in the first schedule to the Industries (Development & Regulation) Act, 1951 are in the Central sector.

THE SMALL SCALE SECTOR

The definition of the term 'small scale industries' has undergone certain changes from time to time after the first working definition had been adopted in 1955 for purposes of administering the various programmes of governmental assistance. The current definition of small scale industries which has been in force since late 1966 is as follows :

Small Scale Industries will include all industrial units with a capital investment of not more than Rs. 0.75 million, irrespective of the number of persons employed. Capital investment for this purpose will mean investment in plant and machinery only.

In calculating the value of plant and machinery the original price paid by the owner irrespective of whether the plant and machinery are new or second-hand is to be taken into account.

Since industries engaged in the production of ancillary items and components required by the large industries needed a higher degree of mechanisation and use costly machinery and equipment, for purposes of being treated as small scale industries a relaxation in capital ceiling up to Rs. 1 million has been allowed in the case of the ancillary units.

Ancillary units have been defined as follows:

A unit which produces parts, components, sub-assemblies for supply against known or anticipated demand of one or more large units manufacturing/assembling complete products and which is not a subsidiary to or controlled by any large unit in regard to the negotiation of contracts for supply of its goods to any large unit. This shall not, however, preclude an ancillary unit from entering into an agreement with a large unit giving it the first option to take the former's output.

The units which are set up primarily for the replacement market also fall within the above definition of ancillary industries.

SMALL SCALE INDUSTRIES AS STATE SUBJECT

The primary administrative responsibility in regard to the development of small scale industries and implementation of the programme of assistance to them is vested in the State Government. The work relating to the development of industries in general and small scale industries in particular at the State level, is looked after by the Directorate of Industries in each of the States and the Union territories. Each directorate is staffed with administrative and technical officers at the State headquarters and District Industries Officer with appropriate supporting staff in each District. The State Directorates provide facilities to the growth of small scale industries by developing industrial land, building up factory sheds in industrial estates, allocating quotas of scarce raw materials, certifying import requirements, assisting in the provision of financial and other assistance and organising industrial cooperatives. They also run various training schemes, production schemes and schemes for providing common facilities.

To advise the State Governments on measures to be taken at the State level to foster the growth of small scale industries, State Small Scale Industries Boards have been set up on similar lines to the All-India Small Scale Industries Board. The State Boards are comprised of representatives of State and Central Government departments, State financial institutions and the associations of small scale industries in the respective States.

CENTRAL ROLE IN THE SMALL SCALE SECTOR

Even though the development of small scale industries is the primary responsibility of the State Governments, in view of the fact that various questions and issues involved in the programme of development of small industries have an all-India character and can be efficiently considered and tackled only at the national level, the

Central Government has assumed responsibility for planning and coordinating the basic programme of development of small scale industries. With this end in view, an All-India Board known as the Small Scale Industries Board was set up in November 1954. The Board is comprised of Central and State officials, representatives of various institutions, financing bodies, Federation of the Associations of Small Scale Industries and a number of non-officials representing, trade, industry and other interests. Meetings of the Boards are held by rotation in each State, usually once every six months. This, no doubt, helps the members to acquire first-hand knowledge of developments in every State, besides drawing their attention to particular problems of local industries. The Board discusses questions connected with credit facilities, supply of raw materials, revision of the definition of the small scale industries for the purposes of the assistance programme, dispersal of industries, etc., reviews the programmes of implementation and formulates new directives for further growth of the small industry sector. Although the Board functions in an advisory capacity, Government attaches great importance to its decisions.

The responsibility for coordinating and executing the programmes and policies of the Government of India relating to the development of small scale industries is vested in the Small Scale Industries Development Organisation (SSIDO), with the Development Commissioner, Small Scale Industries as its head. The SSIDO is administratively in the charge of the Union Ministry of Industrial Development and Internal Trade. The organisation maintains close liaison with the State Governments and different organisations and institutions at the Central and State levels concerned with the development of small scale industries. It functions through 17 Small Industries Service Institutes (one in each State, including the Union Territories of Delhi and Goa), 5 Branch Institutes, 54 Extension Centres, 2 Training Centres, and 3 Production-cum-Training Centres. The main functions of the SSIDO include: (a) coordination, (b) industrial development, and (c) industrial extension service. This Central Government organisation coordinates the work relating to the development of small scale industries on an all-India basis by:

- (i) evolving an all-India policy and programme for the development of small scale industries;
- (ii) coordinating the policies and programmes of various State Governments;
- (iii) acting as a liaison between different States as also between the State and Central Ministries, Planning Commission and Reserve Bank and State Bank;
- (iv) coordinating the programme for development of large and

- small scale industries; and
- (v) coordinating the programme for the development of industrial estates and ancillaries all over the country.

The Central Organisation renders technical assistance which may be required by the State Governments for preparing schemes within the over-all plan allocations. It assists the Union ministries concerned with industrial development in regulating the Central assistance to the States for the development of small scale industries. It also watches the progress in the expenditure incurred by the State Governments in the development of small scale industries. For the development of ancillary industries, the SSIDO establishes liaison with the public and private undertakings and the Directorate General of Technical Development, etc., to ensure proper utilization of the existing production capacity in the small scale sector. The SSIDO is represented on different Licensing Committees, Development Councils and other bodies with a view to safeguarding the interests of the small scale sector. It also advises the Central Government on the question of reservation of more and more industries for the Small Scale sector, from time to time.

Another Central Organisation, the National Small Industries Corporation was set up in 1955, mainly with the objective of supplying machinery and equipment to small enterprises on a hire-purchase basis and assisting them in procuring Government orders for supplying stores items required by Government departments. The main functions of the National Small Industries Corporation are:

- (i) providing small scale industries with modern machines on hire purchase basis;
- (ii) assisting small enterprises to participate in the stores purchase programme of the Central Government;
- (iii) developing small scale industries as ancillary units to large scale industries;
- (iv) arranging marketing of small industries products by starting emporia and sales depots and promoting their export;
- (v) distribution of basic raw materials through their raw material depots;
- (vi) import and distribution of components and parts to actual small scale users in specific industries;
- (vii) construction of industrial estates and the establishment and running of proto-type production-cum-training centres.

LARGE AND MEDIUM INDUSTRIES AS A CENTRAL SUBJECT

As has been stated earlier, the larger scale units which do not fall within the definition of the term small scale units, in industries listed

in the First Schedule to the Industries (Development & Regulation) Act, 1951 are in the purview of the Central Government. Besides the role the Union Government is required to play in planning and coordinating the basic programme of development of small scale industries to which a reference was made earlier, it has the main administrative responsibility for the planning, programming and the development of large and medium scale units in the scheduled industries, both in the public and private sectors. The State Governments, however, are closely associated with the planning and implementation of programmes for the development of the large and medium scale industrial units, whether they be in the public or private sectors.

THE PUBLIC SECTOR

The Industrial Policy Resolution, 1956 had spelt out that for increasing opportunities for employment and improving living standards and working conditions of most of the people, for reducing disparities in income and wealth, for preventing private monopolies and concentration of economic power in the hands of a few, it would be necessary for the government to progressively assume a predominant and direct responsibility for setting up new industrial undertakings and other infra-structure facilities. As per the classification of industries into three categories listed in the Industrial Policy Resolution, 1956, industries in schedule 'A' to the Resolution, which are of basic strategic importance such as arms and ammunition, atomic energy, those in the nature of public utility service such as railways and air transport and those like iron and steel which are essential and require investment on a scale which only the government in the prevailing circumstances could provide are to be set up only by the State. The Resolution had also spelt out in schedule 'B', certain industries in the future development of which the government will increasingly take a predominant part. These included industries such as machine tools, ferro-alloys, tools steels, fertilisers, road transport, synthetic rubber and the like. In keeping with these stipulations of the Industrial Policy Resolution, the Central Government has played a direct role in the execution of programmes in these industries by setting up public sector units. Nevertheless, State Governments too have their share of the public sector. Besides public utility service like Road Transport which are by and large left to the State Government initiative, State Governments have the freedom to set up their own public sector industries. They are also active partners in a number of public sector units set up by the Centre in a number of basic or schedule 'B' (of Industrial Policy Resolution, 1956) industries like steel and fertilisers.

LARGE AND MEDIUM UNITS IN THE PRIVATE SECTOR—CENTRAL MACHINERY AND ITS ROLE

Besides the responsibility for setting up and running public sector industries, the Central Government has a planning, programming, and developmental role in the growth of large and medium scale units in the private sector. This role is played by the Centre through a number of its agencies like the Planning Commission, the ministry of industrial development and internal trade assisted by the economic adviser and the directorate general of technical development, other administrative ministries concerned with industrial development such as ministries of petroleum and chemicals & mines and metals, steel and heavy engineering, foreign trade with its attached office of the chief controller of imports & exports, the department of economic affairs and the ministry of company affairs. The role played by this machinery of the Central Government in the growth of large and medium scale industry and the manner in which the State Governments are associated in this process may be conveniently examined under certain important phases of industrial administration.

THE PLANNING PHASE

In the field of industrial development, as in other fields, Government of India has adopted planning as a prerequisite of industrialisation. The Planning Commission is the main constituent of the machinery for planning at the Centre. The Government of India Resolution setting up the Planning Commission in 1950 had indicated that in framing its recommendations, the Commission would act "in close understanding and consultation with the ministries of the Central Government and the Governments of States. The responsibility for taking and implementing decisions will rest with the Central and State Governments".¹ The Resolution expressed the hope that the States would give the fullest measure of help to the Commission so as to ensure maximum coordination in policy and unity in effort. On the suggestion of the Planning Commission itself, the National Development Council (NDC) was constituted in August 1952, to serve as the highest reviewing advisory body in the field of planning.² The membership of the NDC includes the prime minister, the chief ministers of all the States and the members of the Planning Commission; on the recommendations of the Administrative Reforms Commission (ARC) the NDC has been reconstituted in 1967 to include all Union cabinet ministers as its members. The NDC is thus clearly conceived, as an

¹Government of India Resolution (Cabinet Secretariat) No. 1-P(C)/50, dated March 15, 1960.

²Government of India Resolution (Cabinet Secretariat) No. 62/CF/50, of August 1952.

apex federal body, though non-statutory in character, for giving the States of the Union a greater sense of participation in formulation of national plans and in bringing about a national consensus regarding plan policies. The Planning Commission has also been equipped with the institution of Programme Advisers for groups of States for the purpose of maintaining close liaison with the States. These Programme advisers are required to function as the eyes and ears of the Planning Commission *vis-a-vis* the States falling in their jurisdiction.

The Planning Commission formulates the perspective, the five year and annual plans for the country as a whole. The main plan is the five year plan of which there have been four since independence. In the formulation of the five year and other plans in the field of Industry, the Planning Commission has detailed consultations with State Governments as well as with the Central ministries concerned with industrial development and takes the assistance of the directorate general of technical development attached to the ministry of industrial development and internal trade. It also seeks the guidance of the National Development Council at various stages of plan formulation. The initial macro-economic framework for the national plan as well as policy proposals are placed before the NDC for discussion at which the chief ministers of State Governments fully participate before the general approval of the Council is obtained. The macro-economic framework for the national plan that emerges broadly indicates the quantitative magnitudes as well as major policies involved in the formulation of the plans. After such formulation, the Planning Commission indicates to each State both financial magnitudes of the outlay for the State plan and guidelines for the formulation of the sectoral proposals. The States then formulate their plan proposals and refer them to the Planning Commission. Further discussions take place till the plan for development in each State in the field of industry, as in others, is evolved. This then is the planning process in which the State Governments are closely associated with the Centre.

PROGRAMMING AND IMPLEMENTATION PHASE

The responsibility for programming and the direction for implementation of industrial projects in accordance with the priorities and targets as indicated in the plans, lies with the ministry of industrial development and internal trade in association with other ministries concerned with specific groups of industries. After the adoption of each five year plan, the directorate general of technical development attached to the ministry of industrial development and internal trade draws up the programmes for industrial development in the various sectors of industry over the five years of the plan indicating the projects, priorities, investment outlays, as also the gaps which would

require to be filled by setting up of industrial units. Side by side with this, as a continuing process and generally in accordance with the programmes and priorities outlined, the process of issue of licences for setting up of new undertakings and for substantial expansion as per the provisions of the Industries (Development & Regulation) Act, 1951 is undertaken by the ministry of industrial development and internal trade. This process would merit being looked into in some detail.

THE PROCESS OF LICENSING OF INDUSTRIAL UNITS

The function of granting an industrial licence is the responsibility of the Ministry of Industrial Development and Internal Trade assisted by the licensing committee. The licensing committee (Full Committee) is presided over by the secretary of the ministry of industrial development and internal trade and has a fairly wide official membership consisting of the representatives of the State Governments as well as of various Union ministries concerned, the Planning Commission, the CSIR and other interests. The Full Committee meets roughly once a quarter, but for facility of quick disposal of cases; most of the business is transacted by a local sub-committee consisting of the local members of the Full Committee, *i.e.*, other than the representatives of State Governments, meeting once every alternate week. The applications received for a licence for the setting up of new industrial units or for substantial expansion of existing units in the large or medium sector are examined by the directorate general of technical development or other appropriate adviser like the textile commissioner in the case of textile industry, for making their technical recommendations as to the feasibility or acceptability of the scheme proposed. The administrative ministry concerned which receives these recommendations adds its own and places the application before the licensing committee. The recommendations of the licensing committee are submitted to government for final decision. Whenever any State Government has reason to differ with the decision taken by government on the basis of the recommendations made by the local sub-committee, it is open to the State Government to ask for the case being taken up for reconsideration at a meeting of the full licensing committee when the representatives of the State Governments will also be present. These then are the ways in which the State Governments get associated with the decisions regarding the grant of licences for setting up industrial units or for the substantial expansion of existing units.

IMPORT LICENSING

In the process of setting up as well as of running industrial units, a natural requirement is the import of machinery and equipment that

is not available in the country as also of raw material not locally available. This is true of the small scale as of large and medium scale units. In the context of the shortage of foreign exchange available to the country, it is inevitable that the Central Government has to assume regulatory control over the import of capital goods and raw material required by industrial units. The import of capital goods required for the setting up of new units or for expansion of existing units is regulated by the Union ministry of industrial development and internal trade taking the advice of the Capital Goods Committee set up for the purpose under the chairmanship of its secretary. The technical advice as to what machinery and capital goods might be allowed to be imported is given by the directorate general of technical development (DGTD) attached to the ministry. The import of raw material requirements of industrial units is regulated by the DGTD which goes into the essentiality as well as the indigenous availability before recommending requisite quantities of raw material imports. The actual issue of import licences, whether for capital goods or for raw materials is done by the office of the chief controller of imports and exports (CCIE) attached to the ministry of foreign trade. This office no doubt goes substantially by the technical advice given by the DGTD or other concerned technical adviser such as the textile commissioner in the case of textile units. For facility of reference by the entrepreneurs, actual users and other importers, the CCIE at the beginning of each financial year promulgates the import policy for the year through the issue of what is familiarly known as the 'Red Book' which gives comprehensive guidance and instructions on the question of import of capital goods and raw materials required in the industry sector.

FOREIGN COLLABORATION

In the setting up of industrial units particularly where sophisticated technology is involved or where there is a large requirement of imported capital equipment of a specialised nature, there is often the need for foreign collaboration, including foreign investment in certain cases. This aspect is within the purview of the Union Government which has set up the Foreign Investment Board under the chairmanship of the secretary of the department of economic affairs in the ministry of finance. The secretariat for the Board is provided by the ministry of industrial development and internal trade. While the State Governments are not represented on the Board, they are kept fully in the picture about the policies adopted and the decisions taken by it.

PROBLEM AREAS

Having covered the ground relating to policy and processes of

industrial administration at the Union and State levels, it is now possible to briefly recount the problem areas in this field of administration as between the Centre and the States. As can be discerned from the earlier narration, there is a good deal of overlapping as also consultation between the Centre and the States in the planning, programming and implementation phases of industrial development both in the small scale sector and in the large and medium sectors of industry. It has also been seen that while public sector is essentially a Union responsibility, there are quite a number of public sector undertakings and institutions in the charge of the different State Governments. This sort of dovetailing can and does give rise to problems as between the Centre and the States. The more significant problem areas would merit some discussion.

FINANCIAL ALLOCATIONS

One problem area that immediately arrests attention is the question of financial allocations made to States, and associated with this is also the clamour from different States for a more equitable distribution of Central assistance. It has often been pointed out that the outlays available for projects under the Centre have been increasing more rapidly than those for projects under the States. This is a part of the overall situation where, under the Constitution, the Centre has been allowed greater flexibility in developing its financial resources which puts it in a better financial position than the States. The Study Team of the Administrative Reforms Commission on Centre-State Relationships which went into this general question of financial relations between the Union and the States has observed, "The favourable position given to the Centre in regard to financial resources reflects the strong Centre theme running through the Constitution and many feel that this has been an important factor in keeping the country united."³ The Study Team has, however, hastened to add, "But if national unity had been the only consideration all resources could have been kept at the Centre and devolutions made only to the States according to their needs. That this was not done underlines another principle, namely, that the allocation of independent resources to the States is essential for responsible public administration at the State level."⁴ The Study Team has examined the Centre-State financial relationships and developed a new approach which consists of three propositions:

- (i) the arrangements for devolution should be such as will allow the

³Administrative Reforms Commission, *Report of the Study Team on Centre-State Relationships*, Vol. I, p. 15.

⁴*Ibid.*

- States' resources to correspond more nearly to their obligations;
- (ii) the devolutions should be made in a manner that enables an integrated view to be taken of the plan as well as non-plan needs of both the Centre and the States;
 - (iii) the advancement of loans should be related to the productive principle.⁵

This overall approach commends itself as equally suitable in regard to the more specific field of financial allocations for industrial development.

PROBLEM AREA OF PLANNING

Closely allied to the question of financial allocations is the role of Planning. In this area of Planning as well, the States have a feeling of Central domination and their response is highlighted by their continuous endeavour to ask for greater plan allocations. The problem can be sized up from the fact that financial magnitudes of the outlay for the State plans which are indicated by the Planning Commission at the Centre are invariably exceeded by most of the States in their plan proposals. The differences as between the Centre's viewpoint and the States' aspirations are sought to be resolved by Planning Commission and State Government representatives having elaborate discussions which over the years have become more and more detailed. While this is a salutary development, there is a criticism often voiced by the Centre to the effect that State Planning and development efforts have remained comparatively rudimentary and devoid of the necessary expertise. This is an aspect which should receive immediate attention from a majority of the States.

LOCATION OF INDUSTRY

The question of location of industry has been an area of considerable dialogue and discussion as between the Centre and the States. This problem has two facets, *viz.*, "regional dispersal of economic activities" and "fair allocations as between States". The first facet pin-points the need to avoid undue concentration of industry in already over-crowded areas where the costs of other social services such as transport and housing could be excessively high. The second facet emphasises the need for an equitable distribution of the benefits of industrialisation as among the several States of the Indian Union. This latter aspect has obviously certain political overtones which cannot be brushed aside in any summary manner.

To the extent possible, the process of licensing as also the machi-

⁵Administrative Reforms Commission, *op. cit.*, pp. 21-22.

nery of the Public sector has been used by the Centre to achieve regional dispersal of industry. But it stands to reason that if other techno-economic considerations contra-indicate location of industry in any particular region, whether in the public or private sector, then obviously the regional interest cannot be allowed to predominate. The real solution would lie in striking the right balance as between the various techno-economic considerations on the one hand and the political or other regional considerations on the other, which are generally involved in the location of industrial units.

BACKWARD AREA DEVELOPMENT

Development of backward areas is yet another facet of industrial location. It must be said to the credit of the Centre that public sector projects have generally been located in backward areas to the extent possible as would be exemplified by the fact that all the 4 major public sector Steel Plants, namely, Bhilai, Rourkela, Durgapur and Bokaro have been located in the backward areas, the choice of States for their location being determined by the availability of raw materials and other techno-economic factors. The general question of industrialisation of backward areas was discussed in great detail by the National Development Council and on the basis of the Council's recommendations made to the government the Planning Commission appointed two Working Groups, one on Identification of Backward Areas and the other on Fiscal and Financial Incentives for starting industries in backward areas. The recommendations of these Working Groups are in the process of implementation. Once implemented it is expected that they would go a long way in attracting industry to the backward areas of the different States of the Union.

EMPLOYMENT OF LOCAL PERSONNEL

One other area closely connected with the location of industries is the growing insistence on the part of State Governments to the effect that employment opportunities generally and in particular those in public sector undertakings should be increasingly reserved for the local people. This, by the very nature of things, tends to clash with the salutary principle that merit should be the dominant criterion in selecting personnel for employment under public sector units no less than in any other situations. There is considerable merit in the solution that has been evolved by the Centre in stipulating that employment in the public sector undertakings carrying a salary of Rs. 500 per month or less should be reserved for being filled through recruitment from among the local personnel. It would not be in the national interest to close the opportunities of employment at the higher levels to qualified persons outside each State.

PRICE PREFERENCE

A limited problem that has been assuming somewhat wider proportions in recent times is the system introduced by certain State Governments in their purchases under which price preference is sought to be given for products of industries which are located within their own State limits as against the products of units located in other States of the Union. If this system is carried to its logical conclusion, it can lead to very highly undesirable results to the detriment of the economy of the country as a whole. It is necessary for the Centre to resolve this problem through reasoned consultation with the State Governments.

CONCLUSION

The policies, procedures and problems as between the Centre and the States, in the field of industrialisation have been examined in the foregoing analysis. In the resolution of the problems, it has to be remembered that India is the largest democracy in the world and that, industrialisation being the master key to economic development, if the country has to go further forward it is indubitable that the Centre should have a dominant role in planning, coordinating and directing industrial development. There has to be a clear realisation on the part of thinking people in the top-tier of the State Governments as well as at the centre that national interests must necessarily have priority over regional interests, however compelling the latter may appear to be in the short-run. The Centre as well as the States cannot but have a dynamic approach to the problems thrown up in the day-to-day working of the Centre-State relationships as much in the field of industry as in any other. There can be no major impediment to the solution of any problem faced in the process of industrialisation so long as thinking and responsible people, whether at the Centre or in the States, have the will and the determination to work for the unity of the country.

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Union-State Relations in Education: Their Implications for Educational Administration*

J.P. Naik

I PROPOSE to discuss, in this brief article, a few problems of educational administration in India in the context of the changing Centre-State relations in education.

The Constitution defines the status of education very clearly. According to it, education is essentially a State subject and all educational authority vests in the States, except a few specific powers which have been reserved to the Centre. These include Central universities, institutions of national importance, coordination and maintenance of standards in institutions of higher education, scientific research and technical education, welfare of Indian students abroad, and educational relations with other countries. The Centre also has some specific responsibilities for the education of the scheduled castes and scheduled tribes and for the promotion of Hindi, the official language of the Union. Besides, technical and vocational education has been made a concurrent responsibility. The Central authority and responsibility for education is thus very limited.

The dominant authority and responsibility of the States in education was somewhat clouded between 1947 and 1967 by three main considerations. The first was the singular situation under which the same political party was in power, both at the Centre and in the States. The second was the charismatic leadership of Pandit Nehru and the third was large earmarked grants-in-aid which could be made available by the Government of India, through the Planning Commission, to the State Governments for development of education programmes. These made education largely a concurrent subject in practice. But all these extraneous considerations have now disappeared with the result that we are now called upon to administer education, for the first time,

*From *Indian Journal of Public Administration*, Vol. XVI, No. 3, 1970, pp. 378-84.

in the literal spirit of the Constitution. This is a situation for which we were not quite well prepared and has, therefore, given rise to some immediate problems. But there is no escape from facing them squarely and solving them in the course of next few years. The sooner we begin to do so, the better.

The administrative aspects of this effort to re-build Centre-State relations in education within the strict confines of the Constitution will cover three main issues: policy formulation; organisation of administrative services; and financing of education. It is these three issues that I shall now discuss seriatim.

II

Let me first begin with *policy formulation*. It is obvious that, in this particular field, the Centre and the States will have to work together in the larger interests of the nation. Education may be a State subject under the Constitution. But it will always continue to be a national concern because of its vital role in social and economic development. It is also necessary for the Centre to ensure that the different regions of the country march together with a more equal step and that no serious regional imbalances in educational development are created. This necessarily calls for a certain element of central coordination. In formulating educational policy, therefore, the Centre will necessarily have to play a more dominant role than what may be strictly justified on a literal interpretation of the Constitution; and the States will have to adjust their policies to some extent, not only in deference to the wishes of the Centre, but in deference to the other States as well.

How will the Centre and the States work together to decide a common educational policy—that is one of the main questions to which educational administration will have to find an answer, especially because the Constitution itself does not provide any machinery for the purpose. Historically, a tool has been fashioned for this purpose in the form of the Central Advisory Board of Education, of which the education minister at the Centre is the chairman and the State education ministers, along with a few educationists representing important sectors, are members. This Board was first created in 1935 and since then it has been meeting, ordinarily once a year, to discuss various educational problems and has been making recommendations, both to the Government of India and the State Governments. The pertinent question to be examined is whether we can utilise this machinery (with or without changes) or whether it will be desirable to create another machinery instead.

The working of the Central Advisory Board for the last 35

years and especially since 1947 has brought to light certain inherent problems. The first is the magnitude and variety of issues that need discussion between the Centre and the States. If all such issues are to be discussed in the Central Advisory Board of Education only, it will have to meet very frequently and spend a good deal of time in each meeting. Since this is not possible, a practice was initiated of creating other organisations, on which both the Government of India and the State Governments would be represented, to deal with special issues such as adult education, school textbooks or physical education. While the advantages of this practice are obvious, they also have one disadvantage in the sense that the importance of the Central Advisory Board of Education is reduced in consequence. The problem has often been discussed. Some hold the view that the Central Advisory Board of Education should be the *only* agency for Centre-State coordination in policy-making and that it may, if necessary, function through a number of standing committees dealing with special sectors. Others argue that this will make the Board extremely unmanageable and that it would be desirable to constitute a few other coordinating agencies between the Centre and the States for policy-making in specified sectors. Probably, what is needed is a balance between both the viewpoints, each of which has some merits. But this golden mean does not seem to have been attained so far and we have generally swayed from one position to another—sometimes creating too many rivals to the Board and sometimes eliminating them altogether.

A second difficulty experienced in practice arises from the non-existence of a special secretariat for the Central Advisory Board of Education. The theory is that the entire Ministry of Education at the Centre should function as the secretariat of the Board. But this is a cumbrous and ineffective procedure with the result that the agenda of the Board meetings gets crowded with all kinds of issues, the necessary papers are not prepared sufficiently in advance and a full use is not often made even of the limited time available. A good secretariat with proper streamlining of procedures is one of the urgent needs of the situation if the Central Advisory Board of Education (or any coordinating machinery between the Centre and States for policy-formulation) is to function effectively.

Another set of problems now arise from a failure to concentrate on a few basic issues. The tendency in the Central Advisory Board of Education in the past has been to try to cover any and every educational problem with the result that one fails to see the wood for the trees and effectiveness is sacrificed on the altar of comprehensiveness. It would probably be a good policy to make a radical departure from this tradition and to concentrate, in the Central Advisory Board of Education, on a few major educational issues such as improvement of

standards, promotion of national integration, relating education to productivity or employment, manner in which cooperation and collaboration between the States and the Centre or between the States themselves could be promoted, and resolution of likely conflicts that may arise between the Centre and the States or between one State and another.

Yet another set of problems arise from the lack of seriousness with which both the Centre and the State Governments sometimes look at the recommendations of the Board. One very often comes across unanimous resolutions of the Board which were adopted with great enthusiasm but which, later on, were not implemented at all or implemented too indifferently. This is partly the result of the circumstances already described. If there are too many resolutions on all kinds of subjects from the least important to the most fundamental, the significance of the programme as a whole is lost and the baby often gets thrown out with the bath water. But this is also due to the fact that the Centre and the States do not seem to be attaching that significance to this instrument of policy formulation which it deserves.

The steps to be undertaken in the future are obvious. We must not allow the significance of the Central Advisory Board of Education to go down and ensure that we do not create too many rivals to it in an attempt to take off some legitimate load from its shoulders. A whole-time Secretariat, efficient and committed, will be another major improvement. A self-denying resolution under which the Board could limit its discussions to a few issues of fundamental importance is urgently called for and there is a need, for the Centre as well as the States, to ensure that the Board is treated with proper respect and that its recommendations are duly implemented. This is not constitutional 'concurrency' which would authorise the Centre to legislate on education. But it is the equally important programme of developing educational policies through mutual discussions. It may even be called 'concurrency' or joint endeavour in policy formulation.

III

The second aspect I would like to discuss is that of administrative services. During the British period, two models of educational services were evolved. In the first model, which operated from 1855 to 1897, each province had its own educational service but there was no educational service at the Centre. It was not then possible for an officer of one State to go to work in other States or for officers from the States to go and work at the Centre. Between 1897 when the Indian Education Service was created to 1947 when the service finally came to an end, the administrative personnel in education consisted of the Indian

Education Service (which expanded between 1897 and 1924 and gradually contracted and died out between 1924 and 1947) whose officers occupied the key posts at the Centre and in the States and of Provincial Education Services which occupied the lower posts. Since 1947, a third model is created which consists of a small Advisory Service restricted to the ministry of education at the Centre and a large educational service in each State/Union Territory. But all these services are water-tight and there is no possibility of any movement from one to the other.

None of these three models will obviously meet our requirements of the future. The pre-1897 model in which there were only State Education Services and no educational service at the Centre is obviously obsolete because the Centre cannot discharge its responsibilities in education, explicit or implicit in the Constitution, with an adequate educational service of its own. The post-1897 model of the British period where an Indian Education Service dominated the whole scene is also not possible because the State Governments will not now allow such a service to come into existence. Probably, they will be right in doing so. We are, therefore, left only with the third model which now exists and whose main disadvantage is the isolation of each service from one another. Dissatisfied with this arrangement, an attempt was made to go back to the second model and to recreate the IES. But it has not succeeded so far; nor is it likely to succeed in the near future.

Under these circumstances, we have really to make a serious effort to evolve a fourth model which will eliminate or at least minimise the disadvantages of the existing situation. This is possible if an imaginative and unorthodox approach can be adopted. We should strive to build up, in this new pattern, an educational service at the Centre which would have two major roles. The first would be to advise the State Governments on the formulation and implementation of educational policy. For this purpose, it will have to consist of the best educational leaders available in the country and invited to function within it on a tenure basis. The second would be to administer the Central responsibilities in education for which it will be necessary to build up a small nucleus of a regular service recruited and trained for the purpose. Steps will also have to be taken to ensure that it will be possible for officers of the State Education Departments to work at the Centre for specified periods on the usual deputation terms and similar steps will also have to be taken to provide opportunities to officers in the Central Education Service to go out to the field for specified areas to gain practical experience. Provision will also have to be made for contractual arrangements between the Centre and the States for exchange or deputation of education officers from the State services to the Centre or *vice versa*. This looks complicated at first sight. But it is

certainly not beyond the administrative talents available in the country to work out a practicable scheme to meet these requirements. If such an effort can be successfully done, we would have built up, at the level of the administrative services, a large measure of cooperation between the Centre and the State educational officers, which will do an immense good for the development of education in the country. I might briefly describe the programme as 'administrative concurrency' and its success will depend upon the quality of leadership provided by the Centre through its own educational service.

IV

I shall now take up the financial aspects which are so intimately connected with policy formulation and implementation. The Constitution vests the elastic and growing financial resources in the Centre so that the State Governments will always depend upon grants-in-aid from the Government of India for effective educational development. But no amount of Central aid can serve the purpose if simultaneously the initiative and responsibility of the States to raise additional resources to finance educational development is not properly emphasized. What we need, therefore, is a practical partnership between the Centre and the States to ensure that the necessary resources for educational development are made available.

The major problem here is whether the grants given by the Centre to the States be tied to certain educational objectives or not. The State Governments naturally prefer to have grants which are not tied up to any programme, including education. On the other hand, the Centre may prefer—and in this it has the support of the vast majority of educators—to give tied grants for educational development. Thus arises a conflict which has not been satisfactorily resolved so far. In the meanwhile, one thing has happened. The Centrally sponsored sector, or the tied grants for educational development, have begun to decline : and if the State Governments had their way, they would disappear very soon.

The weaknesses of the centrally-sponsored sector which the State Governments emphasise are readily recognised. There has been a proliferation of schemes in the Centrally-sponsored sector. Not all the schemes have an inherent priority of their own. The Centrally-sponsored sector has also led to some centralisation and rigidity in the administration of grants. It has also been used to bolster up weak proposals and the distribution of the funds under the programme between the various States has often been inequitable. This is a serious charge-sheet, no doubt. But the significance of developing the crucial sectors in education through tied Central grants is so great that one would pre-

fer to evolve a programme of a Centrally-sponsored sector which eliminates these weaknesses rather than abandon it altogether. Not enough thought has been given to this problem. But the future of education will depend upon our ability to develop a programme of tied Central grants for education which will be free from the defects noticed in the past and will, consequently, be acceptable to the State Governments. This may almost be described as 'financial concurrency'.

V

The main point of my argument is simply this: the Constitution makes education an almost exclusive responsibility of the States and vests little authority in the Centre in this field. In the larger national interests, however, it is necessary that problems of education are solved on the basis of a 'working partnership' between the Centre and the States. To create such a partnership through an amendment of the Constitution is not possible and may even be undesirable. But it can certainly be created through an imaginative administrative approach, combined with sound professional leadership supported by fairly large financial grants, tied where necessary. It is in this direction that we shall have to strive in the years ahead.



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